X86REPET1 SEALED APPEARANCES (continued) WHITE & CASE Attorneys for Defendants BY: FRANK PANOPOULOS CHRISTIAN HEYNE DAVIS WRIGHT TREMAINE, LLP Attorneys for Citibank BY: SHARON L. SCHNEIER

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(In open court)

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THE DEPUTY CLERK: Peterson vs. Republic of Iran. All parties please state who they are for the record.

MR. PANOPOULOS: Good morning, your honor. Frank
Panopoulos, law firm of White & Case, representing third-party
with interest Clearstream Banking, SA.

Your Honor, on my right is Mr. Christian Heyne. He is the chief of the legal department of Clearstream Banking, SA.

THE COURT: How is his name spelled?

MR. HEYNE: H-E-Y-N-E.

MS. SCHNEIER: Sharon Schneier for -- from Davis Wright Tremaine, representing Citibank.

MR. VOGEL: Good morning, your honor. Liviu Vogel of Salon, Marrow, Dyckman, Newman & Broudy, representing the plaintiffs. On my right is my associate, William Cortellessa, and to my far right are three attorneys that represent the plaintiff in the Washington, DC action. They will introduce themselves.

MR. COOK: Good morning, your honor. David Cook on behalf of Deborah D. Peterson.

MR. FORTUNE FAY: Good morning, your honor. Thomas Fortune Fay on behalf of Deborah D. Peterson, et al.

MR. PERLES: Good morning, your honor. Steven Perles on behalf of Deborah Peterson, et al.

THE COURT: Good morning, all. All right.

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MR. PANOPOULOS: Your Honor, if I may.

Your Honor, just to thank the Court again for appreciating the situation that the restraints have caused and for allowing this hearing to occur today.

I just wanted to remind the Court that the testimony that we will hear relates to the information that was covered by Judge Lambert's protective order. And the testimony will be both confidential material that will be under seal under that protective order, as well as information that is confidential and proprietary with respect to Clearstream's banking services. So I would ask the Court at this time if we could have this proceeding under seal.

THE COURT: All right. What I would like to do is begin it not under seal until you reach such point that you're going to deal with confidential information.

MR. PANOPOULOS: Yes, your Honor.

THE COURT: At that point I've read the papers, I specifically ask that the order be filed in the public record. And I appreciate that information is subject to the protective order from Judge Lambert.

I've read the papers. I appreciate that not only is it subject to the confidentiality order, but that it does deal with confidential, proprietary information, and there is a compelling reason for closure when that information is discussed. So the narrowest remedy for that, and one which

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would accomplish the goals of keeping the information confidential, is to seal only the portion of the hearing that deals specifically with the confidential information, though I fully appreciate that most of the testimony would probably be confidential because it deals with such things as specific bank account matters, which are well recognized to be confidential.

MR. PANOPOULOS: Yes. And the way that we'll present the evidence is that for the first section, it's material that's not confidential, and then after it is.

So with your Honor's permission, I'd like to call
Mr. Mark -- so nervous I forgot his name. Mr. Mark Gem to the
stand. And I'd like to distribute a binder, your Honor, that
has the information that we'll be going over.

THE COURT: Did anyone wish to be heard before we start?

MR. VOGEL: Your Honor, Liviu Vogel for the plaintiffs. As such time as the information becomes confidential and the testimony will then be sealed, we request that the Court voir dire those persons who are in attendance to ensure that they are the proper persons under the existing protective order that can receive that kind of information.

Thank you.

THE COURT: Sure. Well, when you talk about voir dire, I'm sure when we reach that point -- I imagine there are probably people coming in on other matters. This will be very

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short before I have to go to another sentencing matter, and I'm going to take a break. And you all probably know the people in the courtroom after I ask people who are not directly involved in this proceeding to leave. So we'll deal with that when we come to it.

MR. PANOPOULOS: Very well. Thank you. MARK GEM,

called as a witness by the Defendants,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PANOPOULOS:

- Q. Mr. Gem, could you please tell the Court what your 12 functions are at Clearstream. 13
- A. Clearstream, I'm a member of the executive committee. I look after a number of departments, including the network 15 management function, which is responsible for the subdeposit of 16 the securities that Clearstream maintains on behalf of its customers in various countries, including the United States. 18
 - And are you a member of the executive committee? 0.
- Yes, indeed I am. 20 Α.
 - And what other functions do you have there? Q.
- 22 I'm also responsible for such things as corporate planning, corporate strategy, marketing. 23

THE COURT: Do you have a title?

THE WITNESS: Head of business management, your Honor.

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Gem - direct

THE COURT: Is that -- is that an officer of the company?

THE WITNESS: Yes, indeed it is.

THE COURT: Doesn't have a title like managing director or vice president or anything like that?

THE WITNESS: Indeed, executive vice president.

THE COURT: Go ahead.

BY MR. PANOPOULOS:

- Q. And, Mr. Gem, you have knowledge of the omnibus account that's at issue here?
- A. Yes, I do.

THE COURT: Could you just tell me briefly what Clearstream is.

THE WITNESS: Clearstream -- the correct name is

Clearstream Banking, SA. Clearstream Banking, SA, is a bank in

Luxembourg. It is also a securities settlement system

recognized and regulates as such by the European system of

central banks.

We are a company which was founded as a security settlement system in 1971 by a consultant of US and international banks in order to act as a depository for Eurobonds; that is to say, to act in a function which is equivalent to that performed, say, by the depository trust and clearing corporation here in New York or by, say, Euroclear Bank in Brussels.

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We became a bank in 1994, at that time known as Citadel Bank. We became a part of the Deutsche BESA group, which is the group owned by the -- or controlled by the German stock exchange in 2002. The German stock exchange is a 100 percent shareholder of Clearstream Banking, SA, via Luxembourg Holding Company Clearstream International, SA, of which I'm also an officer.

THE COURT: Go ahead.

MR. PANOPOULOS: Your Honor, if you would turn to the Exhibit B in the Tab. There are four charts that described the clearing services that Clearstream provides. And for the benefit of the Court --

THE COURT: We are at Tab?

MR. PANOPOULOS: On Tab B, Exhibit B, your Honor, for the benefit of the Court and the plaintiffs and the others.

I would just ask Mr. Gem if he could just describe what is in the charts and explain Clearstream's delivery and settlement services.

THE COURT: Just for the record of the proceeding, I take it there's no objection to receiving CDL Exhibit B in evidence, right?

MR. VOGEL: No objection, your Honor.

THE COURT: Okay.

(Defendant's Exhibit B received in evidence)

MR. PANOPOULOS: Just for the record, Exhibit A are

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the restraining notices served on -- and the writ of attachment on Citibank. And I didn't want to refer to them because I didn't want to get into confidential material at this time.

Those are already in the record.

THE COURT: Okay.

BY MR. PANOPOULOS:

- Q. So, Mr. Gem, could you please describe what is in each of the charts that is in Exhibit B.
- A. The first chart is a schematic view of the custody arrangements that we organized for the subdeposit of foreign securities; that is to say, securities which are issued elsewhere than through Clearstream Banking itself in Luxembourg. And in this case, I've chosen the person as an example of the subdeposit of a US issued bond. In this case we take an illustrative example, say, of a security issued by the European investment bank. What this is showing is how the subdeposit of our customer's balances would feed into the omnibus account that we maintained Clearstream Banking maintains with Citibank here in New York and how that balance would contribute to the total balance of security interests or interests in that security at the depository trust and clearing corporation here in New York.

So if we start at the bottom of the chart, you'll see that the European --

THE COURT: Can I ask you just -- maybe you're going

Gem - direct SEALED X86REPET1 to get to this. You're talking about a bond, ISIN and 1 identifying number? 2 3 THE WITNESS: Indeed. THE COURT: Is that for a specific bond? Is that the 4 identifying number for, for example, a series of -- a specific 5 series of a bond, given maturity date, given interest rate, so 6 that you can identify it? That's a bond? That's the 7 identification number for that bond? 8 THE WITNESS: It is --9 THE COURT: There can be lots of those bonds issued, 10 but that's the identifying number for that -- that particular 11 12 bond? THE WITNESS: For that particular bond, indeed, which 13 would generally be issued in the form of a global note in which 14 the interests of all of the holders and notice of that notes 15 are effectively --16 THE COURT: There can be lots of bonds with that 17 number, yes or no? 18 THE WITNESS: There can be lots of positions in that 19 bond with that number, but the issue itself will have a unique 20 identifier. 21 BY MR. PANOPOULOS: 22 O. And, Mr. Gem, by position do you mean an interest in that 23 24 bond? 25 I mean an interest in that bond.

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THE COURT: Let me just give you an example, just so that I understand. An issue of bond -- let's say, \$15 million in bonds. There are lots of people who can buy individual participations of the bond. Let's say 5 people buy \$10 million of that bond issue, but each of those people would have -- each of the bonds that are given to those people, participations in the bond issue, would have the same ISIN number?

THE WITNESS: Exactly.

MR. PANOPOULOS: And if I might just direct the Court to Exhibit C. You've anticipated, you know, the next Exhibit. This exhibit -- it's not confidential. It's from public information. It lists the securities, the ISINs, the bonds that are at issue and that are listed in the writs of attachment and restraining orders and, as you'll see, your Honor, describes who the issuer is, the distribution date, the maturity date and the initial amount of the interest of the issue and the interest. I just note it for the Court's --

BY MR. PANOPOULOS:

Q. Okay. Mr. Gem, if you could proceed, then.

THE COURT: Thank you.

A. So given that that is the case, what the first page in Exhibit B is showing is that indeed, if you take this as being an issue on security for total nominal value of 1 billion US dollars, then in this example you could see that we have said at the depository trust incorporation where all the interests

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in that bond must ultimately be immobilized, I would have a broker, for example, holding \$50 million. You would have a custodian -- let's say Citibank of New York, illustratively -- for \$500 million, and another custodian -- let's say Bank of New York Mellon -- for 450 million. In that, behind that we would say Clearstream might have a position in that bond on its omnibus account with Citibank New York of say 400 million. And another Citibank customer might have 100 million, giving the total positions of 500 million at Citibank, New York, at DTCC New York. Behind that 400 million that Clearstream banking would have, we might have a number of customers -- in this case three customers -- all having a certain interest.

And the point that I would make is that the individual customer accounts are not reflected down the custody stream, but in this omnibus concept, which is generally adopted in the United States market, all of the interests are globalized in single positions cascading down into the ultimate position against the issuer account.

- Q. And I would ask you, Mr. Gem, in the omnibus account are there subaccounts for each of the securities?
- A. Effectively there are subaccounts for each of the securities, but not for each of the holders.
- Q. And are there corresponding cash accounts for each of those securities?
- A. No, there are not. The cash accounts that the custodians

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1	would maintain with each other would be typically identical to
2	normal correspondence Nostra accounts.
3	Q. Yes. And if you could simply describe to the Court the
4	next four pages, which are an illustrative
5	THE COURT: I'm going to have to break for about a
6	half an hour.
7	MR. PANOPOULOS: That's fine, your Honor.
8	THE COURT: So let's take a half an hour. Thank you.
9	(Recess)
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MARK GEM, resumed.

THE CLERK: The witness is reminded that he is still under oath.

THE COURT: Do you understand?

THE WITNESS: I understand.

BY MR. PANOPOULOS:

- Q. Your Honor, Mr. Gem, we were in Exhibit B and you had just explained the first chart about what the omnibus account was and we are now on the second page and if you could briefly describe for the court the illustrative transaction on the second page of Exhibit B.
- A. Yes. The next pages are concerning the main transaction types which we, as a settlement system, would undertake on behalf of our customers.

Before turning to the first what we call an internal delivery free of payment, I should emphasize that Clearstream Banking as the custodian are not acting for their own account, rather for the accounts of their customers in settling contracts between parties which have been concluded separately and independently of the settlement system.

So in this first example, we take a very simple transaction which is where one customer of Clearstream Banking is delivering securities to another customer of Clearstream Banking delivery free.

What this chart is showing is that that would mean

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Gem - direct

that the position in the security concern of customer A in the top left-hand portion of the page is reduced or marked down by the amount of the delivery, in this case \$50 million U.S. dollars nominal, and the account of Clearstream's customer C on the top right-hand of the chart is marked up by 50 million U.S. dollars nominal.

The important point to note is that there is no change in the positions of the custodians beneath. The position of the Clearstream Banking has at Citibank as its custodian in New York is not changed as a result of that transaction.

What is meant by delivery free, it means that there is no compensating cash payment in the books, in this case Clearstream Banking. It may mean, therefore, that the delivery has been made without the change in the beneficial ownership of the customer, of the party who is owning the interest represented by customer A or it may mean that there has been a change of beneficial ownership because the consideration at the conclusion of the sale and purchase agreement has been paid outside of Clearstream Banking.

Q. Clarify, Mr. Gem, for the court and for plaintiffs, basically what you are saying is that there is a transfer of a value in securities between the Clearstream customers, but the payment stream that you would expect from the buyer to the seller isn't in Clearstream, it might be somewhere else, for example, Euroclear or some of the other clearing houses?

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A. In that example it would not, in fact, it would not be in Euroclear, it may be a commercial bank or, indeed, there may not be a distribution at all, there is no change in beneficial ownership, it maybe the customer of customer A is transferring between two custodians that he employs, but he remains the beneficial owner of the securities. That may also be a possibility.

My point is that you cannot conclude that because the delivery is free the beneficial ownership has or has not changed as a consequence.

- Q. Then turning our attention to the next chart.
- A. The next chart is the same transaction, but whether delivery free is made not to another Clearstream customer, but to somebody else, in this case to a direct participant at the Depository Trust and Clearing Corporation.

U.S. dollars of shares to in this example I suggested a broker, the point there being it is exactly the same considerations apply in terms of the free character of the delivery, but the difference is that the positions of the custodians downstream are affected because the delivery has occurred outside of Clearstream. So as a consequence, the custody account of Clearstream Banking at Citibank New York is also reduced by 50 million, because in this case the delivery is also made to a party who is not a customer of Citibank, Citibank's position at

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the Depository Trust Clearing Corporation New York is also reduced by 50 million.

- Q. Then turning our attention to the third transaction in Exhibit B.
- A. Yes. The third transaction is very similar to the first, except that it is made against payment. What that means is that the corresponding consideration for in this case the sale of securities from customer C to customer A is settled on the cash side in the books of Clearstream Banking, meaning that Clearstream will take the account, cash account of customer A for the nominal value times the trade price in the security and credit the account of customer C, and that is done simultaneously with the securities delivery, meaning that the two parties are short of what we call finality, that if I pay I get my securities or if I deliver my securities I get paid.

Once again, because that is an internal transaction, nothing happens in Clearstream's Banking security balances or cash balances.

THE COURT: Why does the account at Clearstream go down to 350 million.

THE WITNESS: I'm sorry, your Honor, I used the values regarding from the previous chart so the shares are equal, so they are not reduced in that transaction, they remain at 350 million in this example.

A. The fourth example is an external delivery against payment,

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meaning that the securities are delivered from a Clearstream customer to somebody who is not a Clearstream customer for payment.

What that means is that the custodians in the chain have to manage both the delivery of the securities and the collection of the proceeds in such a way that both parties receive finality.

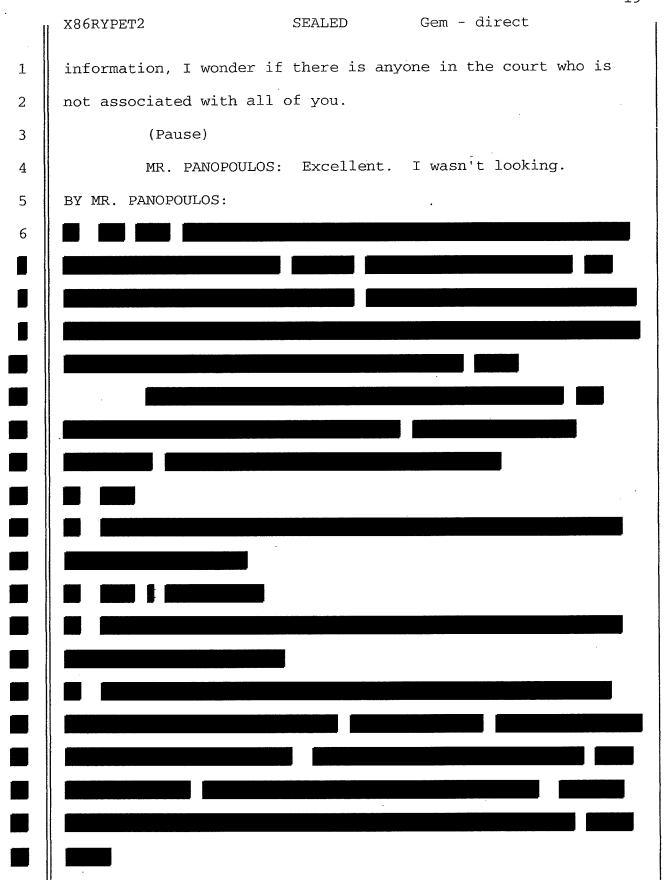
So in this example you see the customer A would be delivering 50 million of securities to custodian B, in this case we suggested illustrative the Bank of New York Mellon as an example, and that means that the accounts of customer A is marked down by 50 million, that the accounts of Bank of New York Mellon is marked up by 50 million at DDCC and, consequently, we see the accounts of Citibank New York is also marked down by that amount.

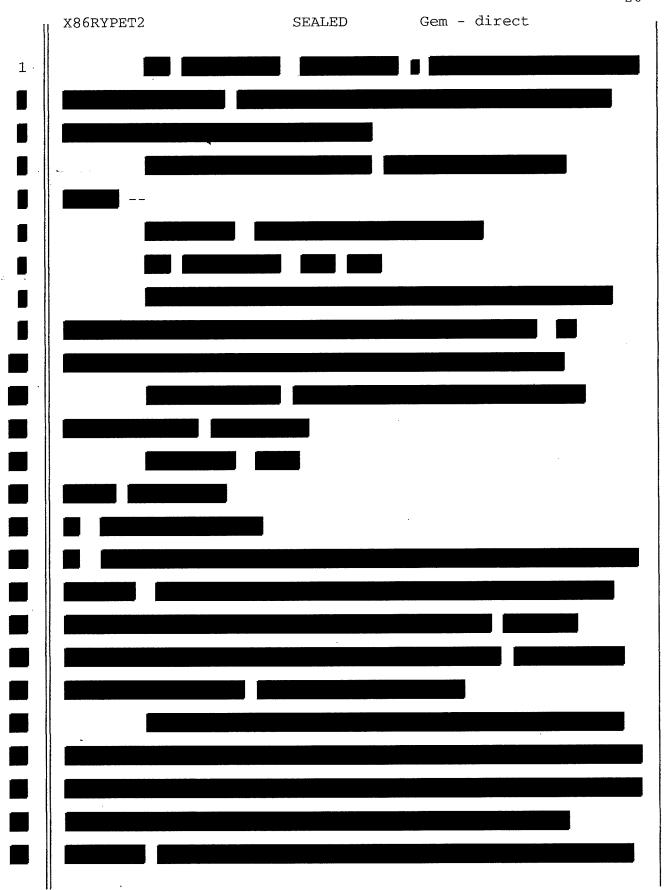
The payment flow is, of course, that at one level Bank of New York Mellon would pay Citibank New York, Citibank New York would credit Clearstream Banking U.S. dollar account at Citibank New York and we would credit the proceeds to our customer, customer A in our books.

Q. Turning your attention to Exhibit C.

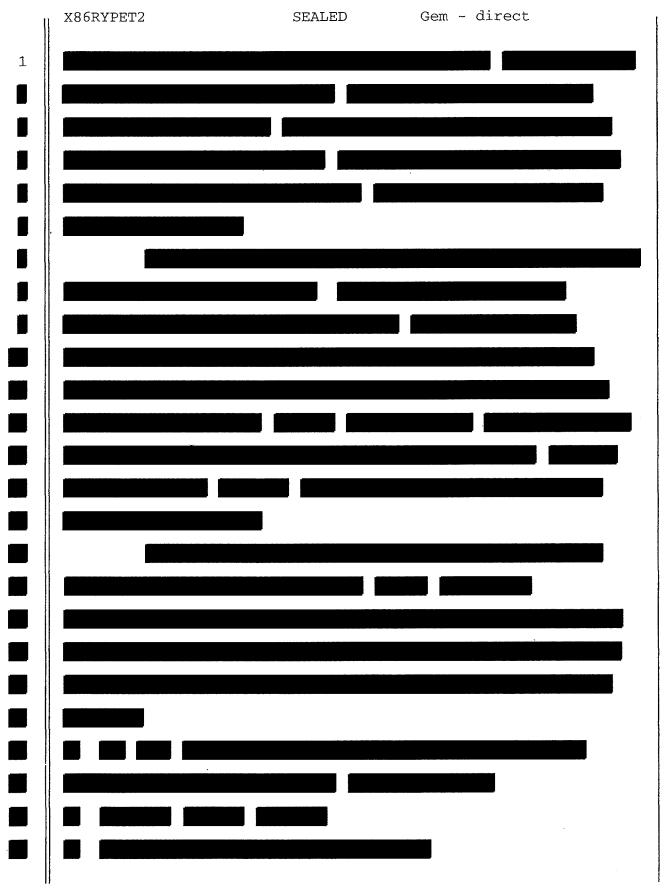
MR. PANOPOULOS: Your Honor, at this point I am going to refer to the writ of attachment, but I could refer to it generically --

THE COURT: If we are turning to confidential

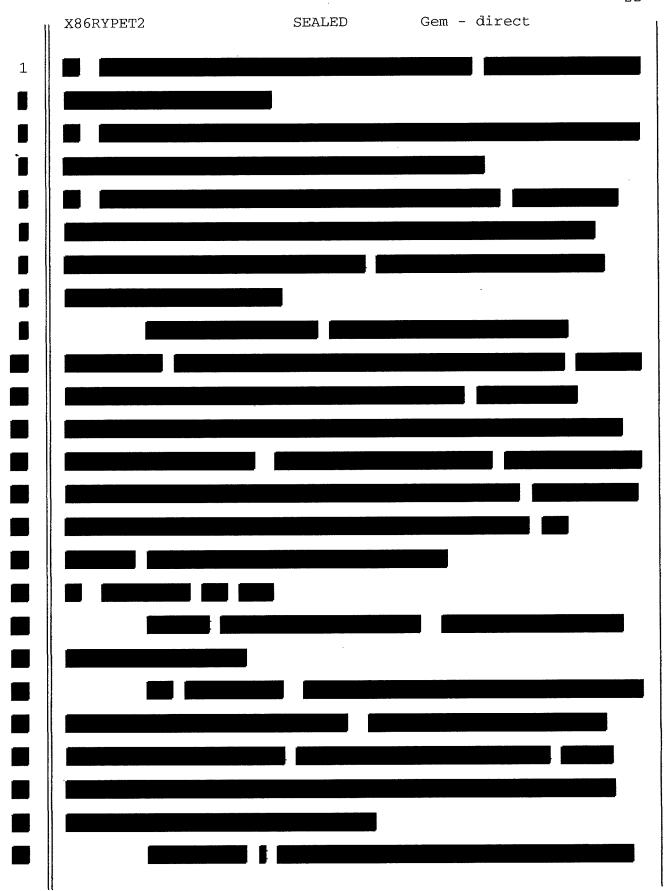


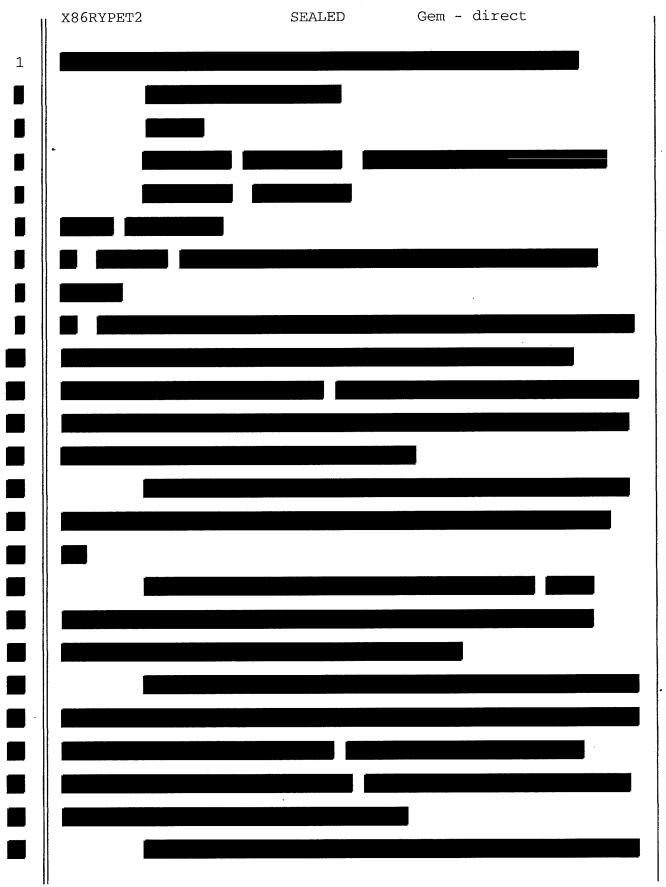


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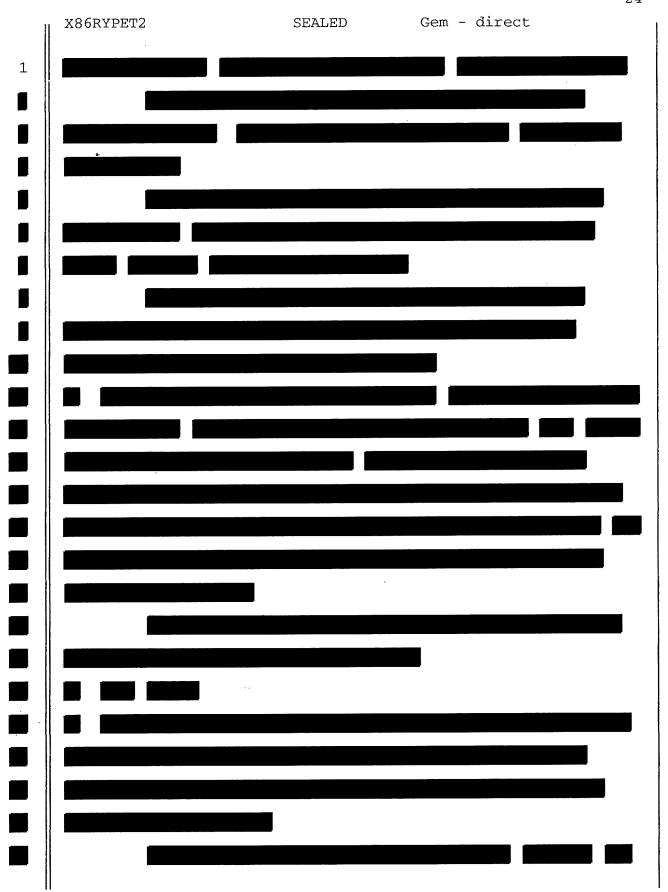


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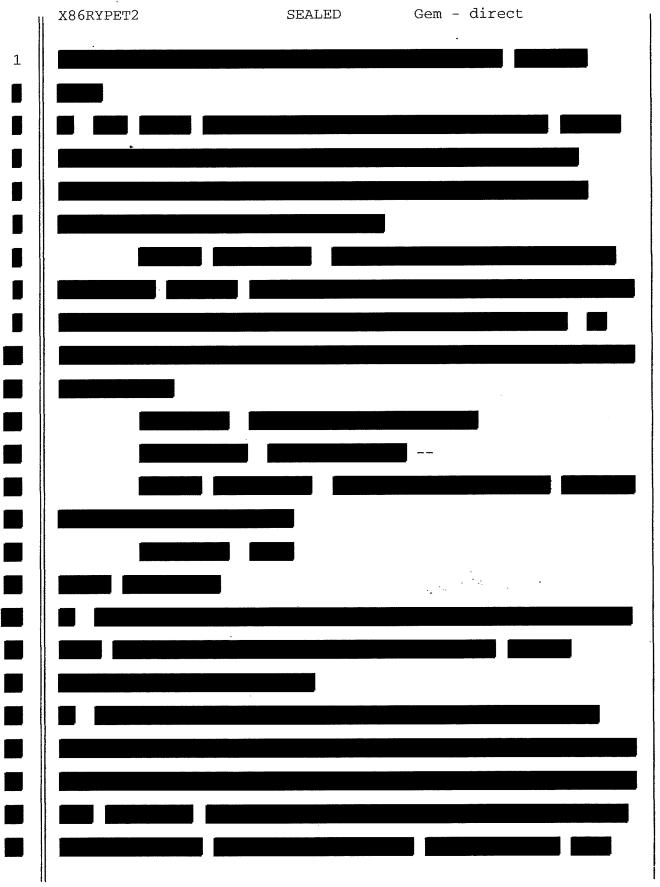




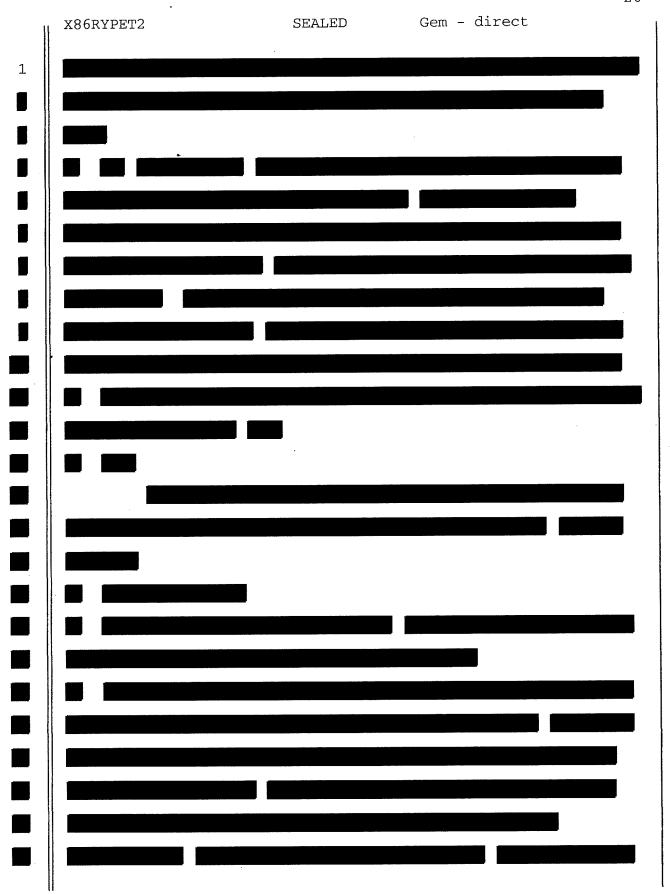
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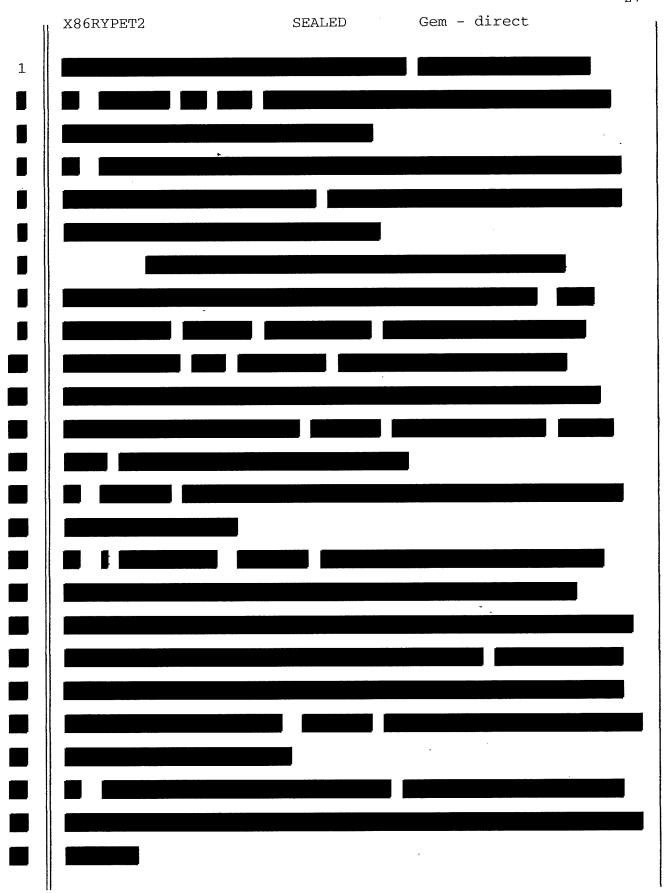


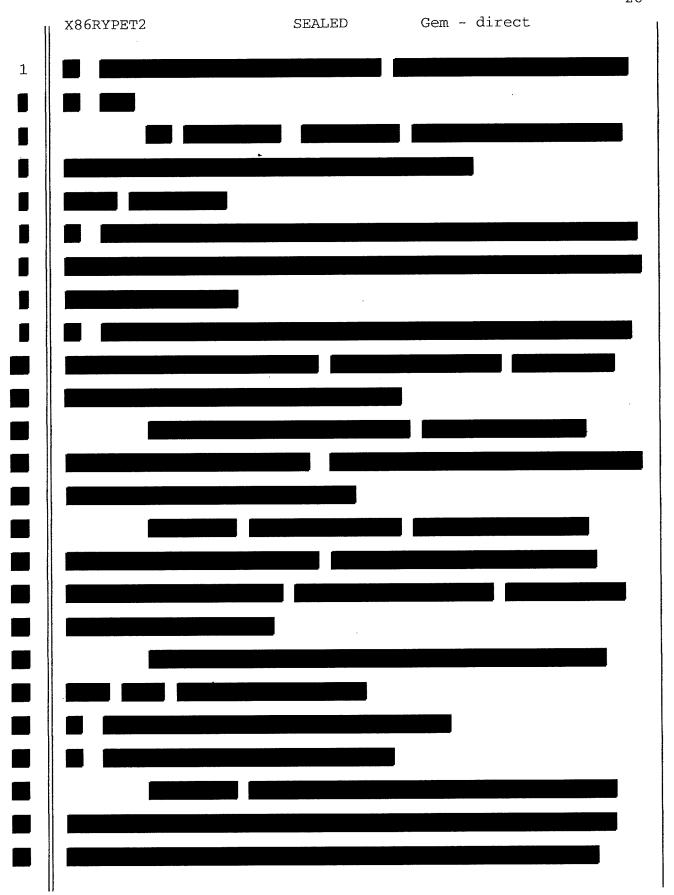




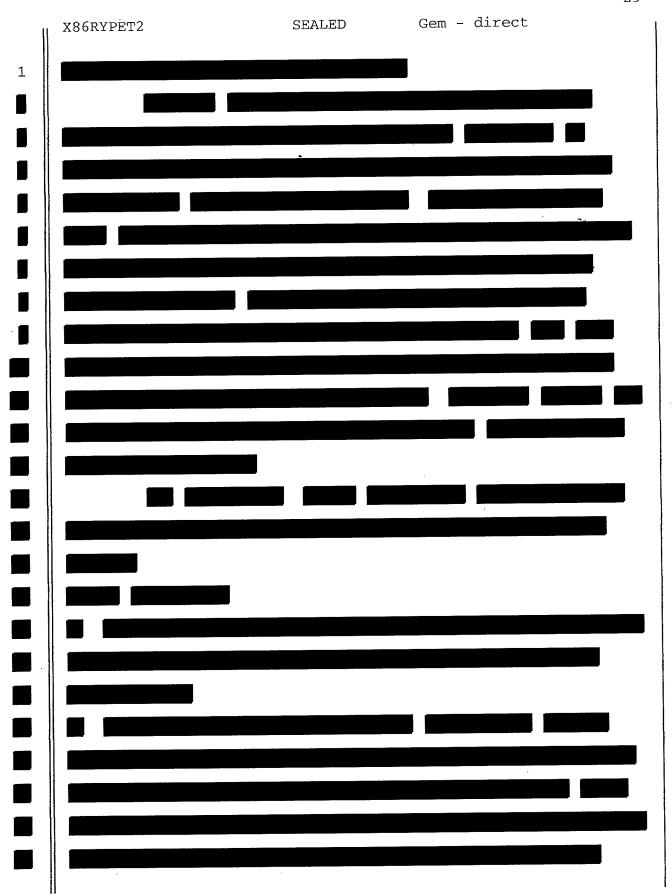




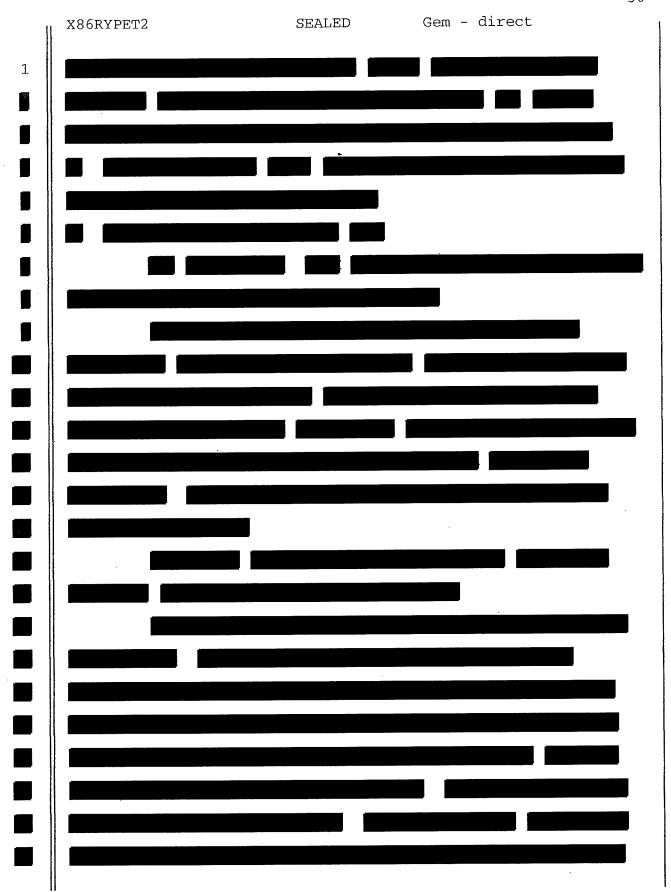




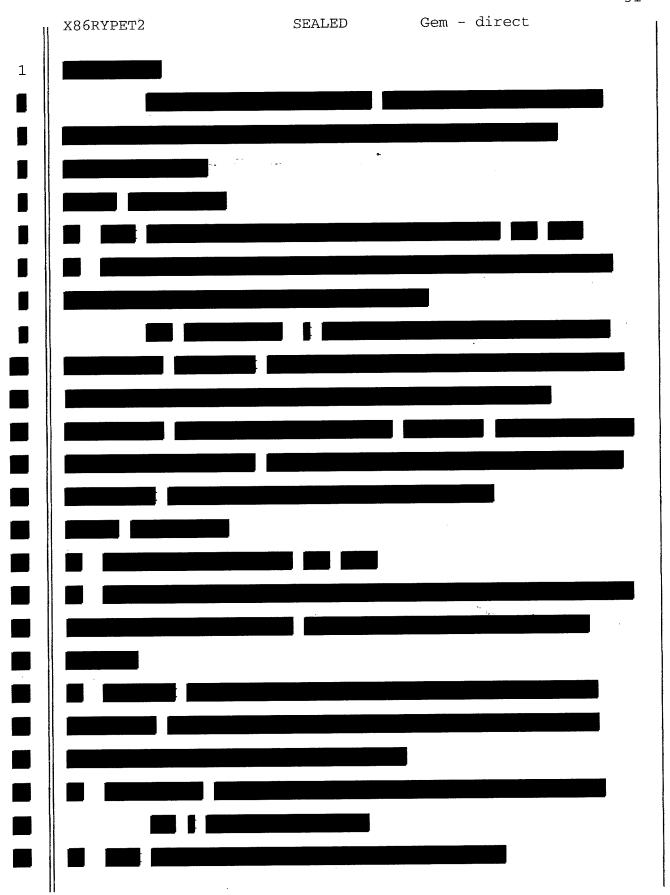
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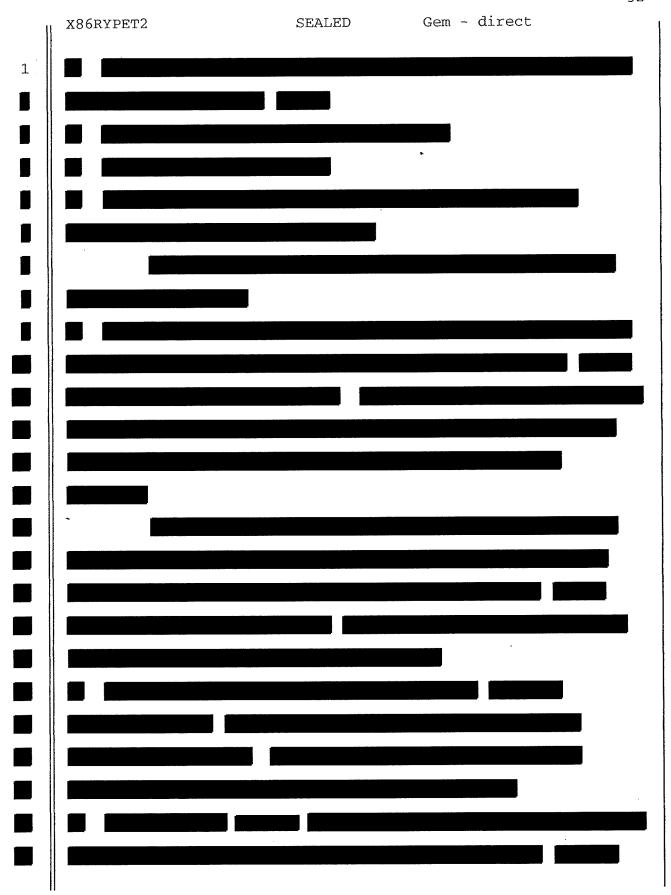
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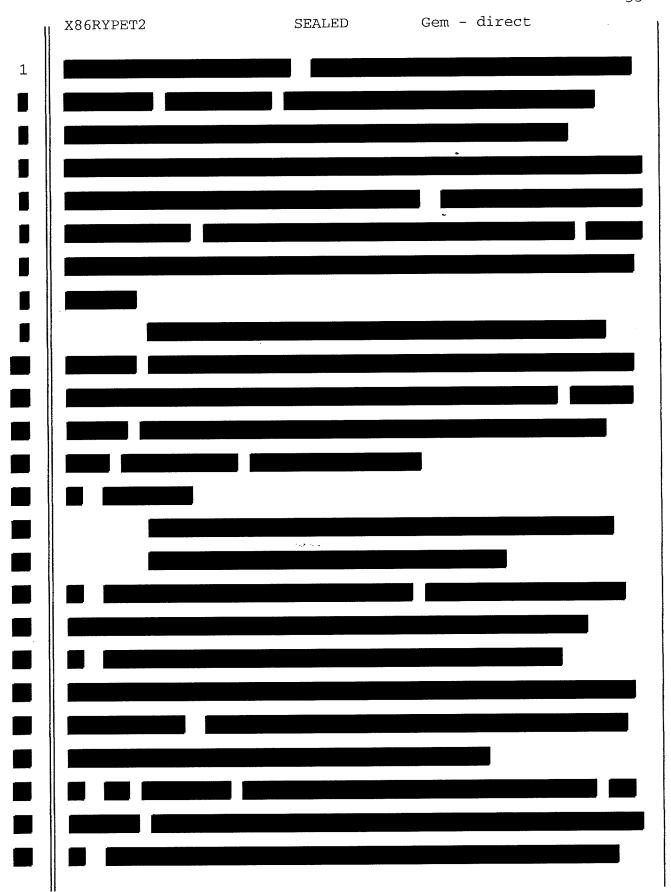
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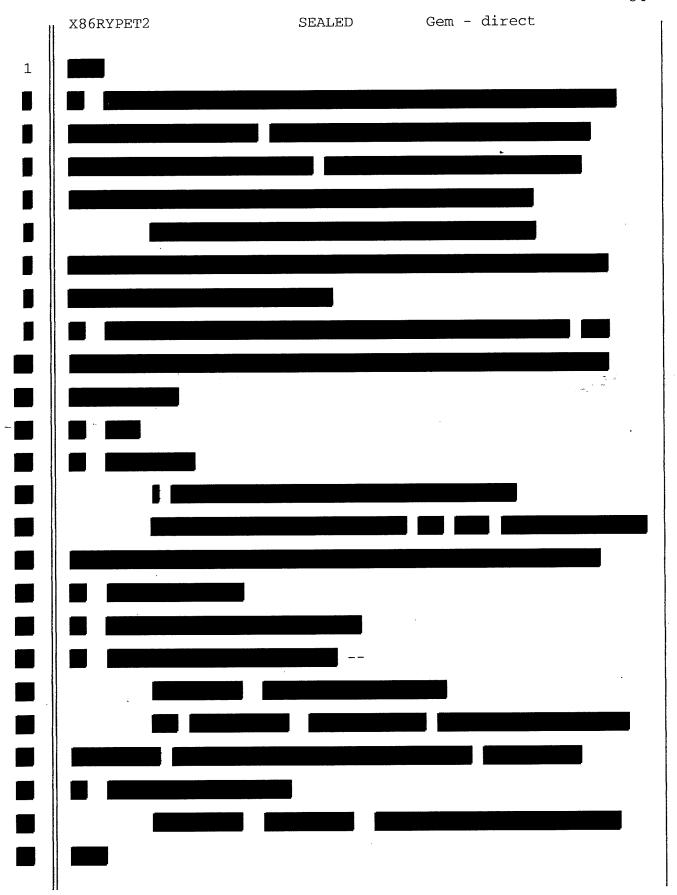
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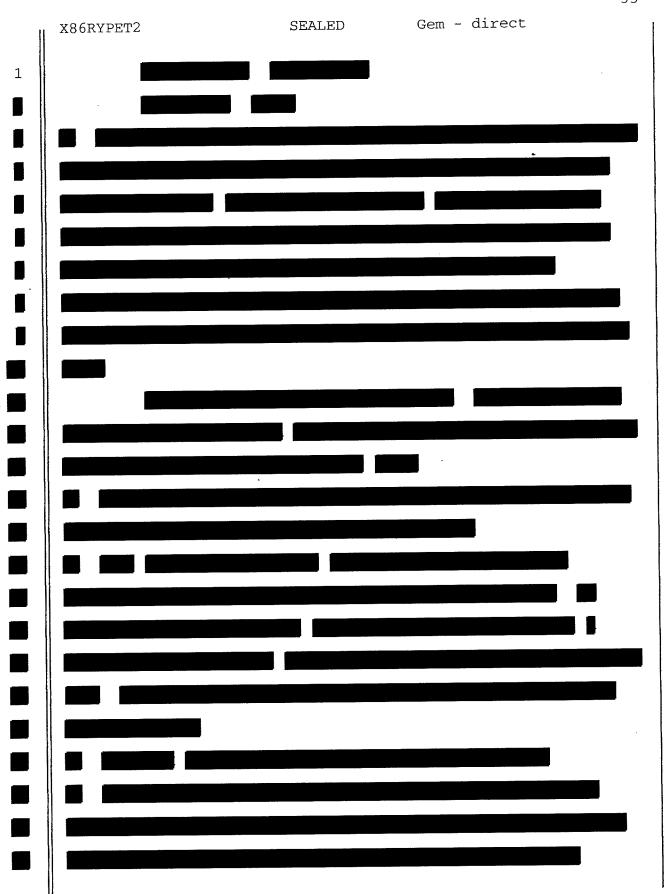
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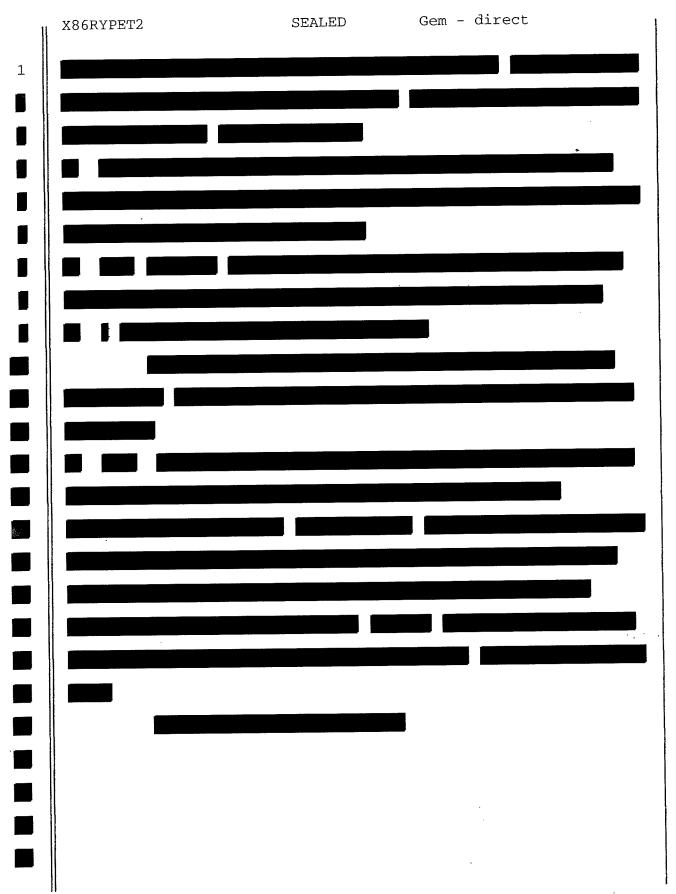
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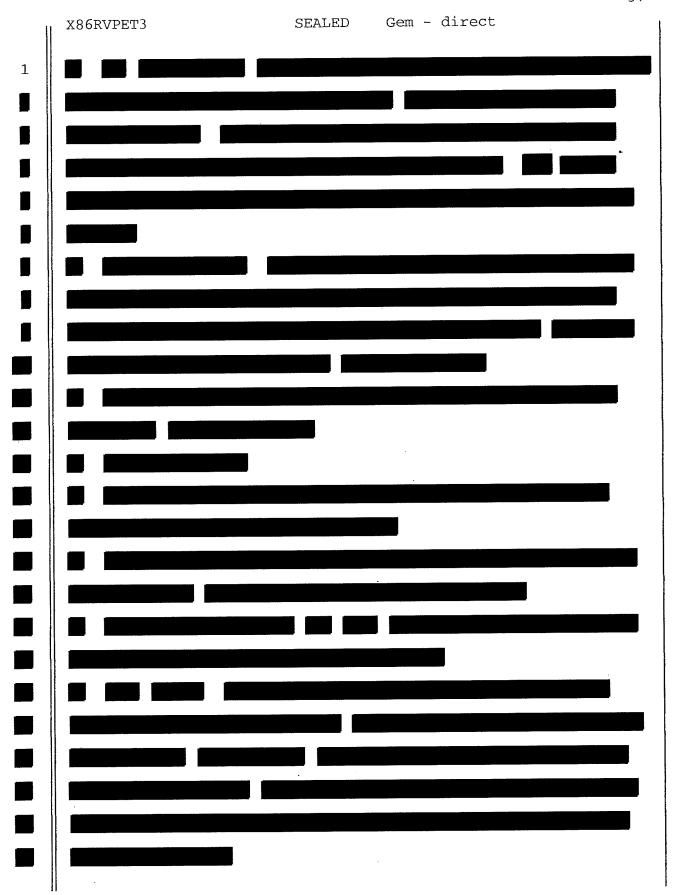
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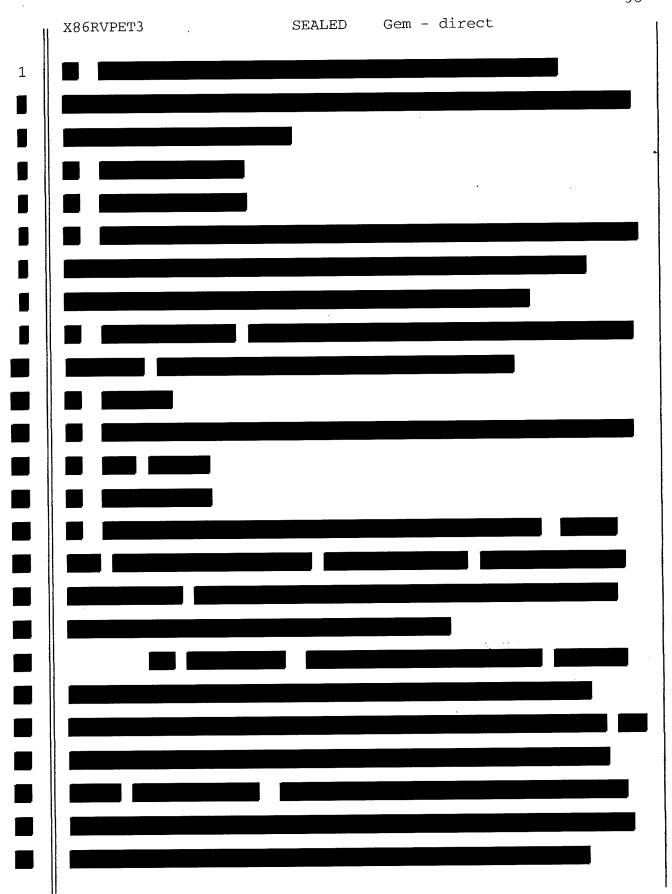
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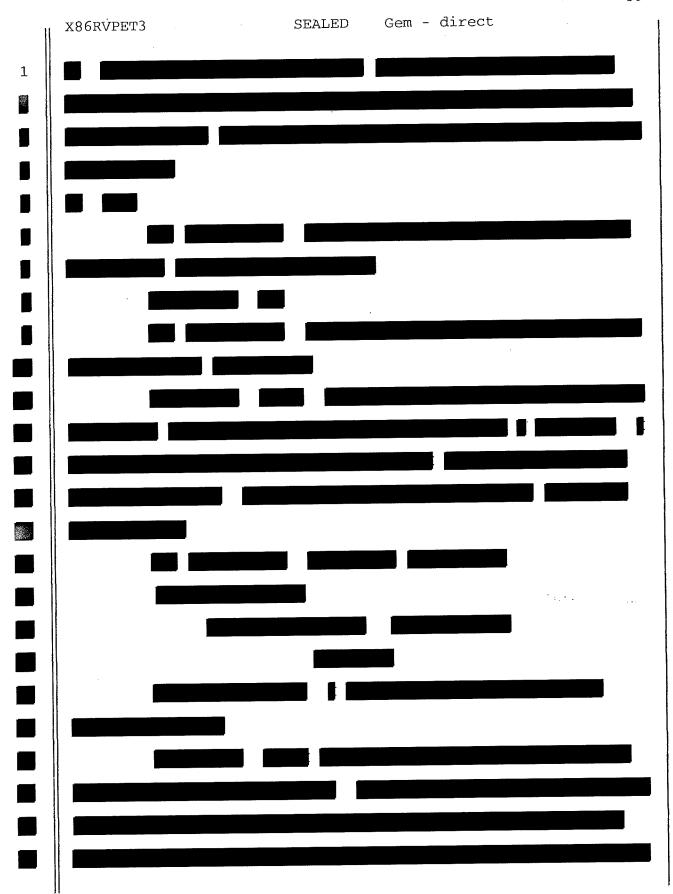
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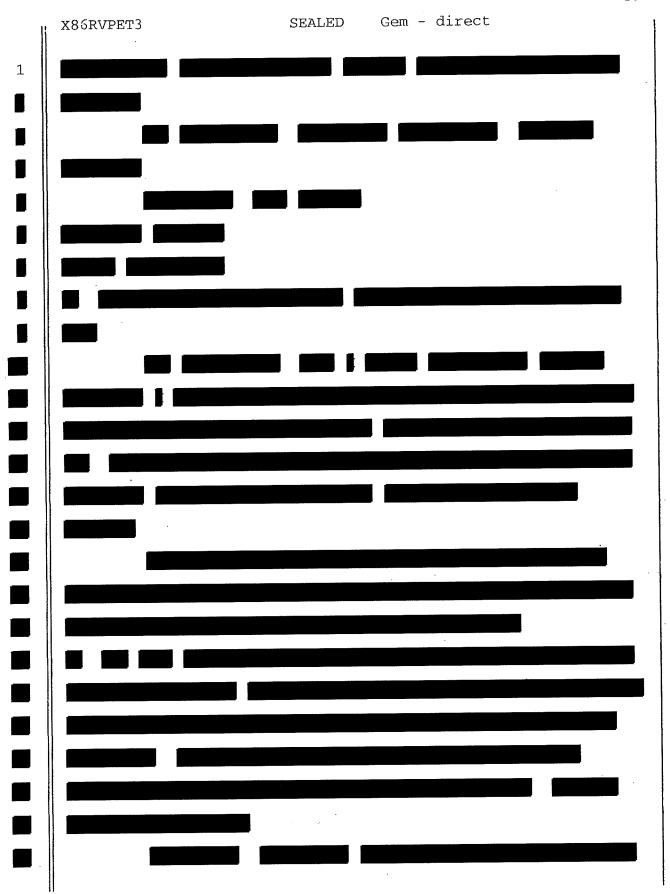
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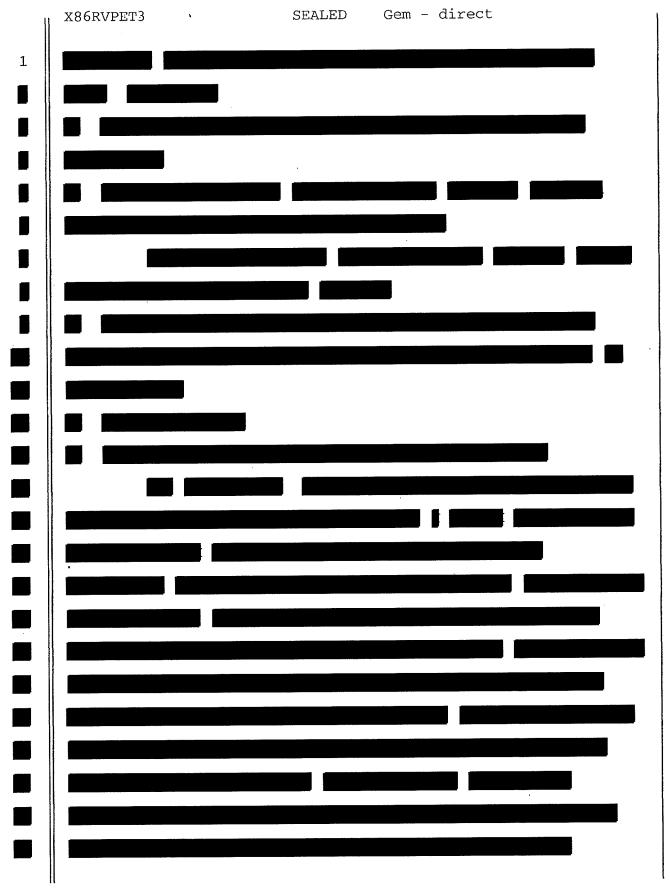


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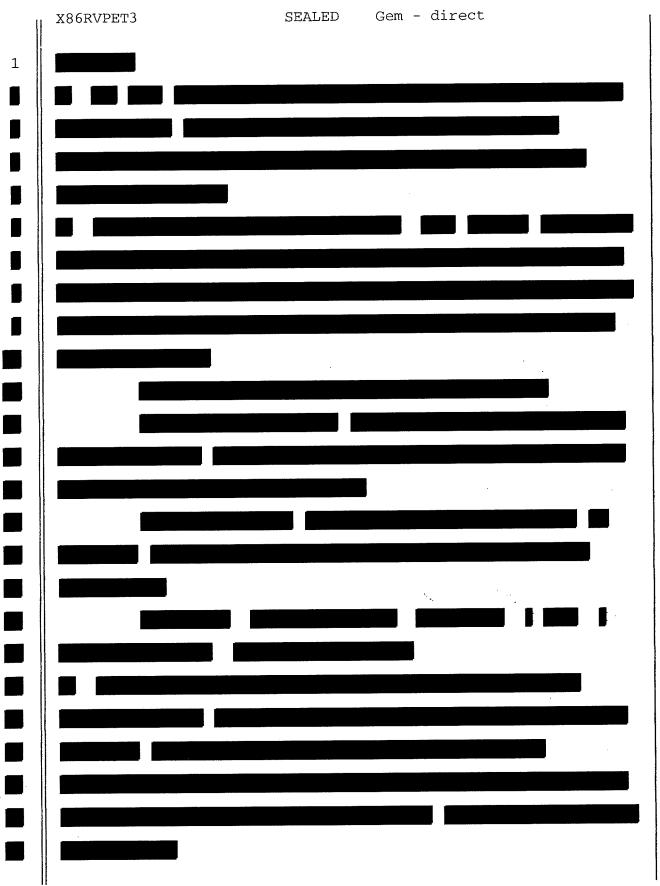


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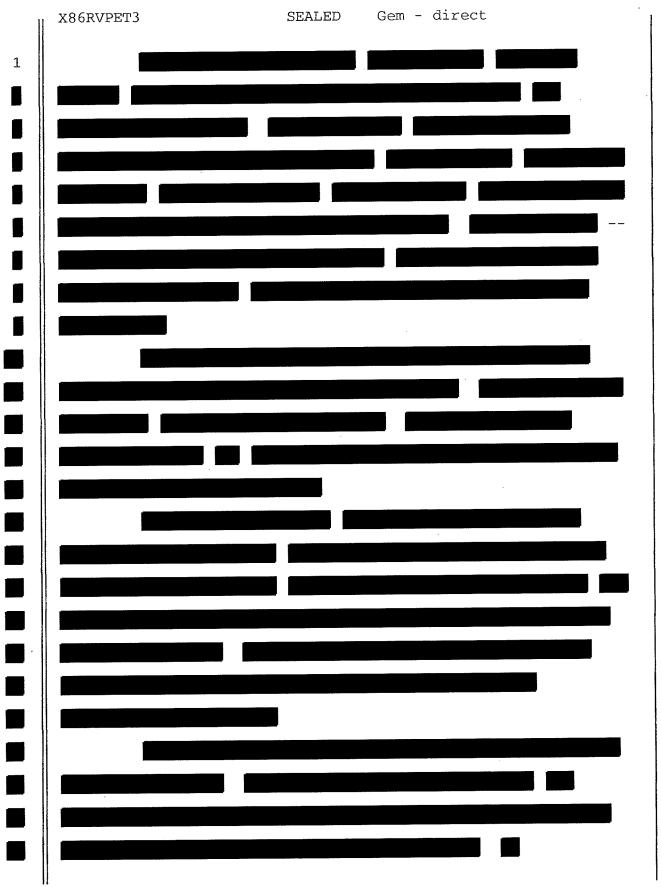




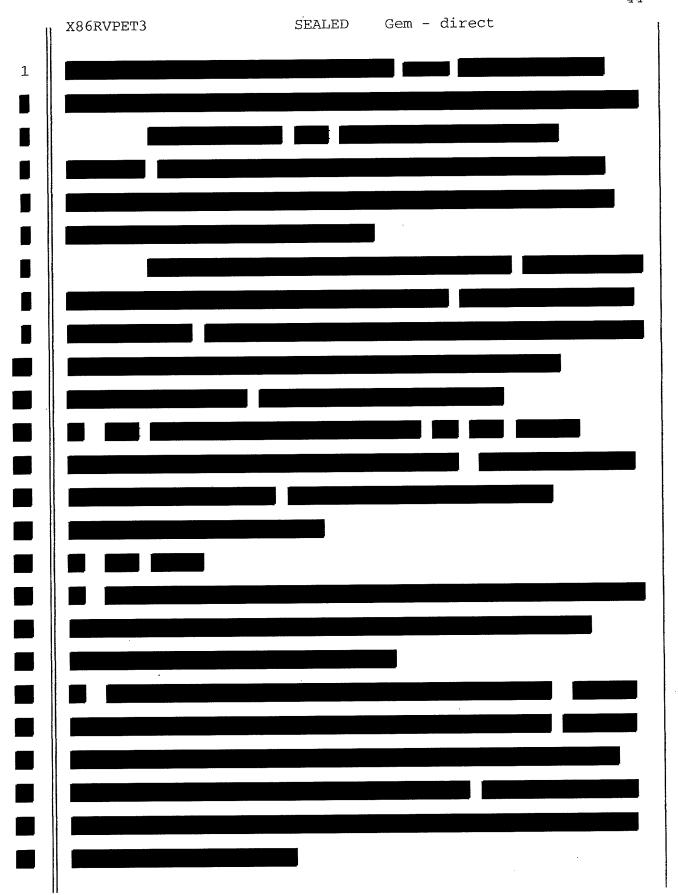


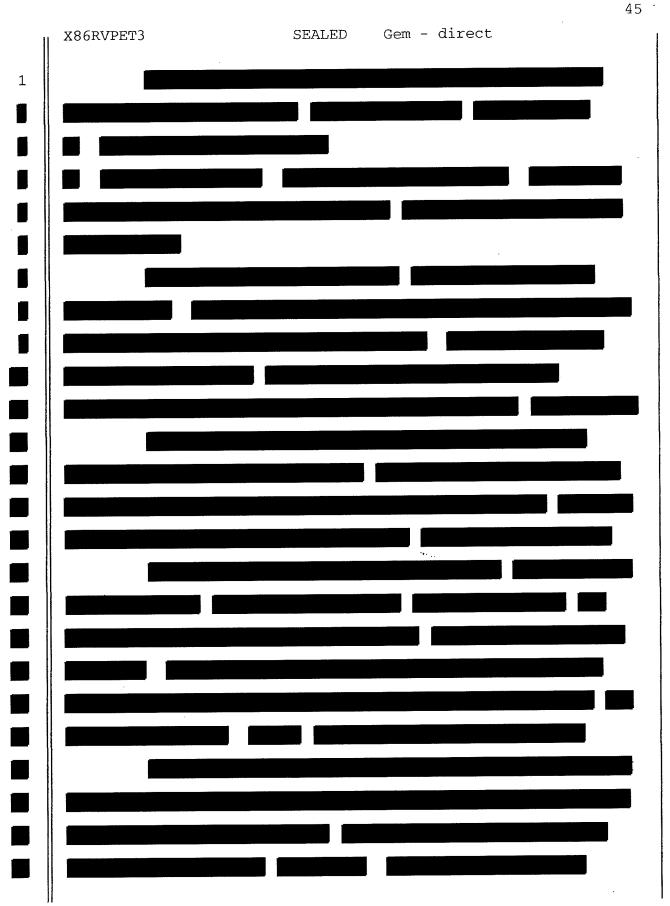
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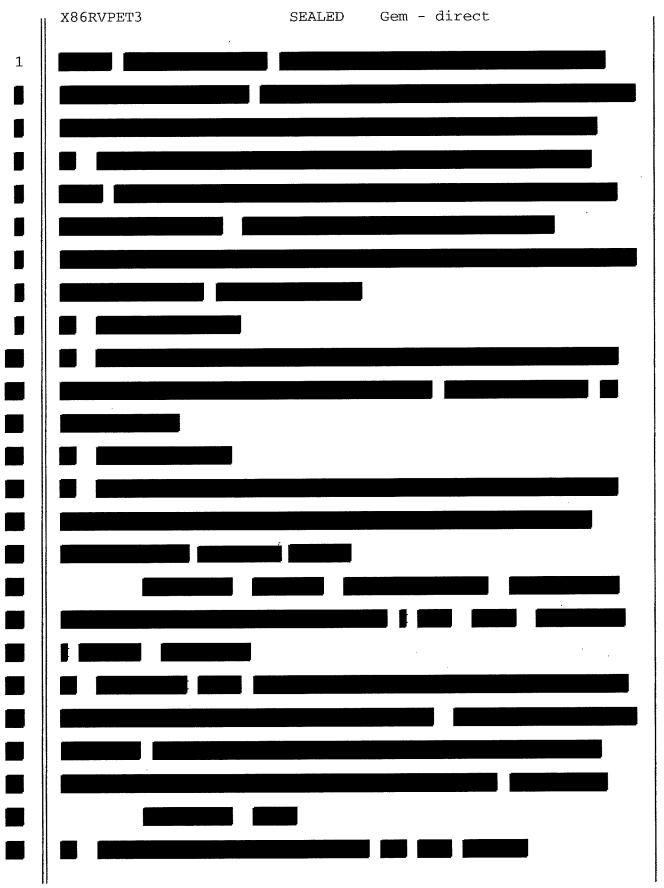


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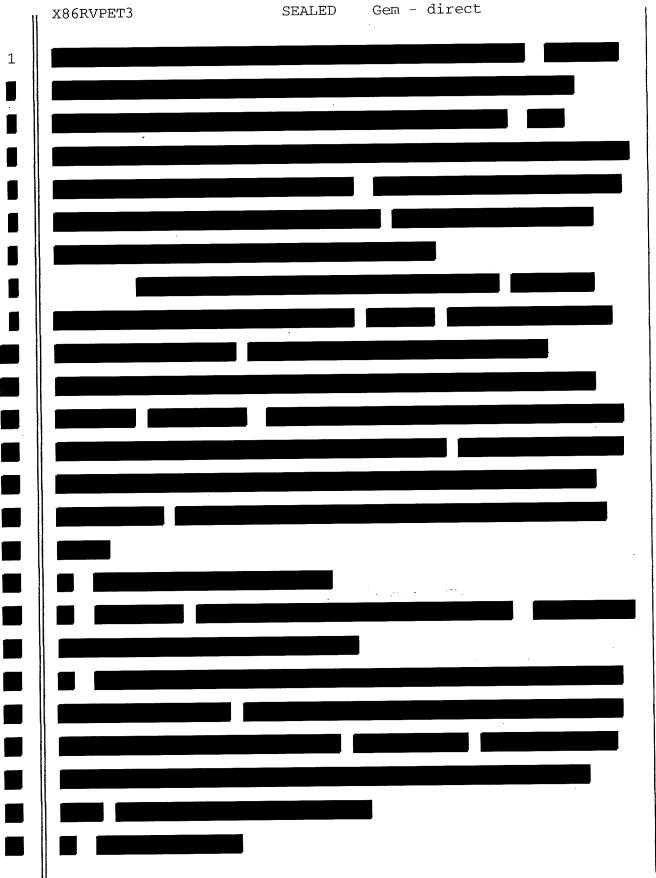
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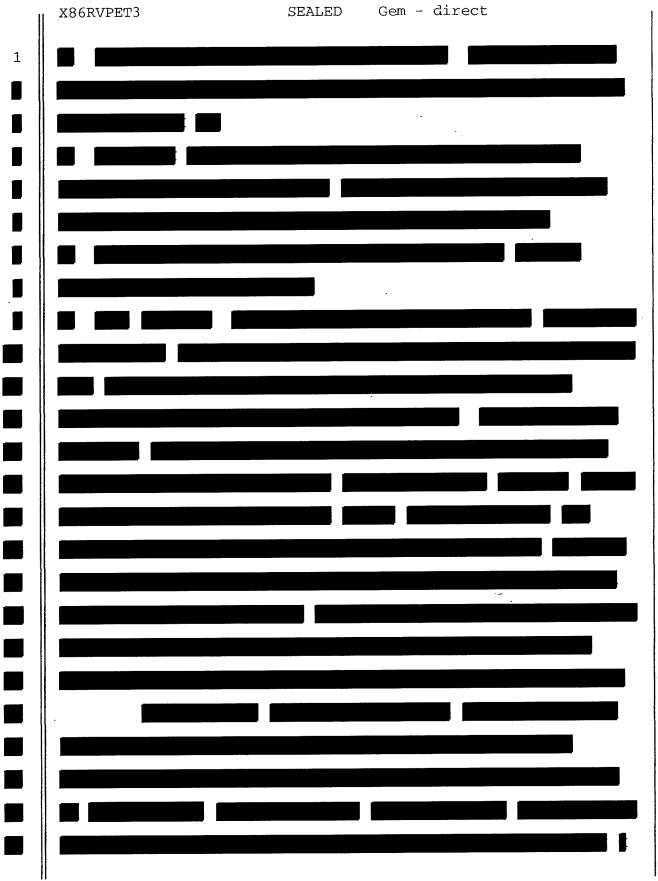
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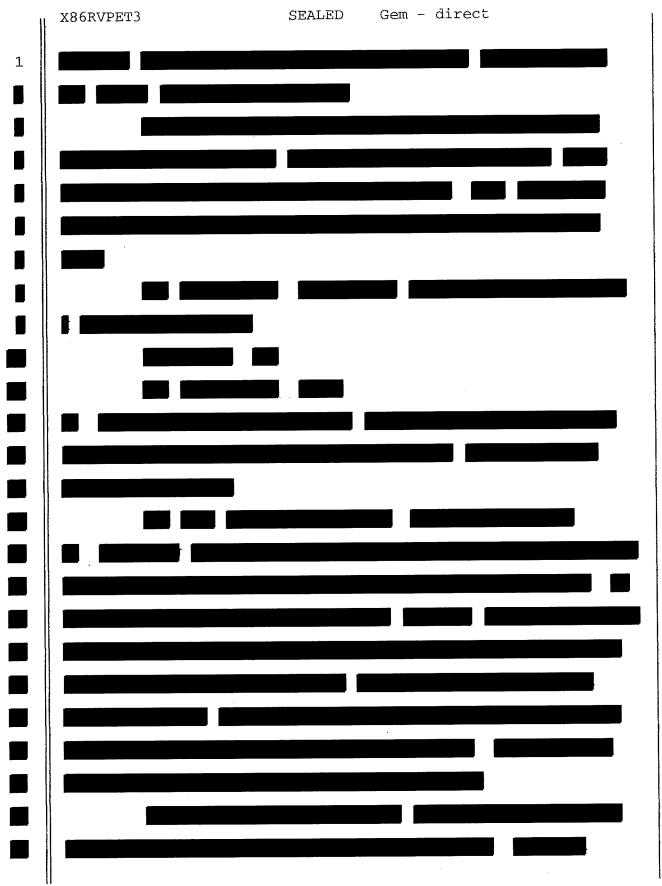


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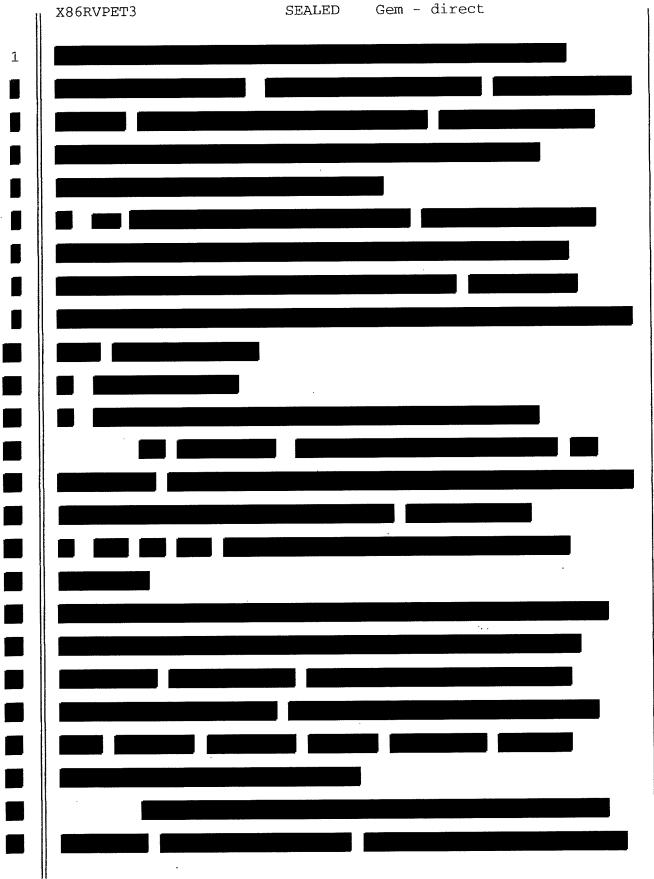


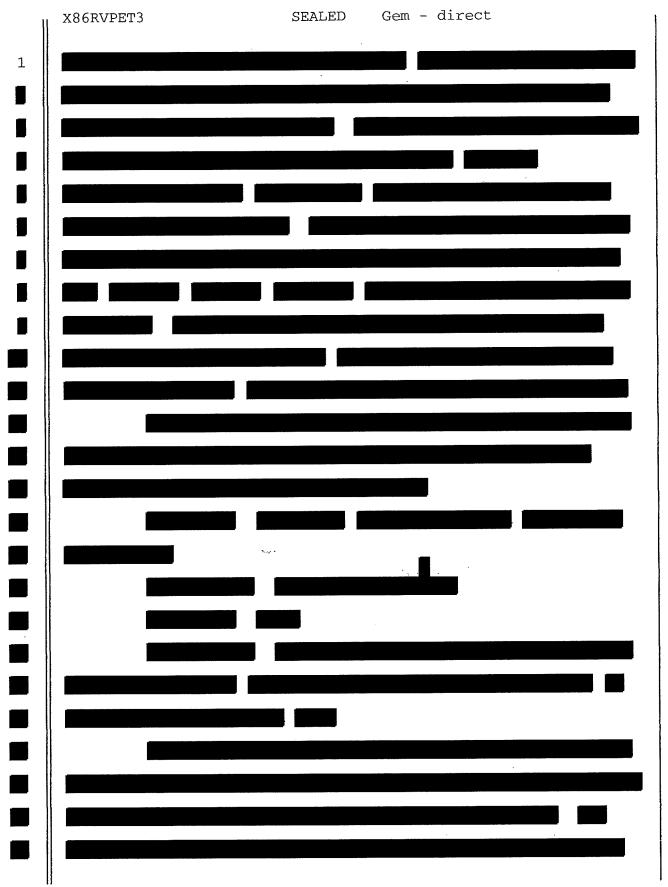




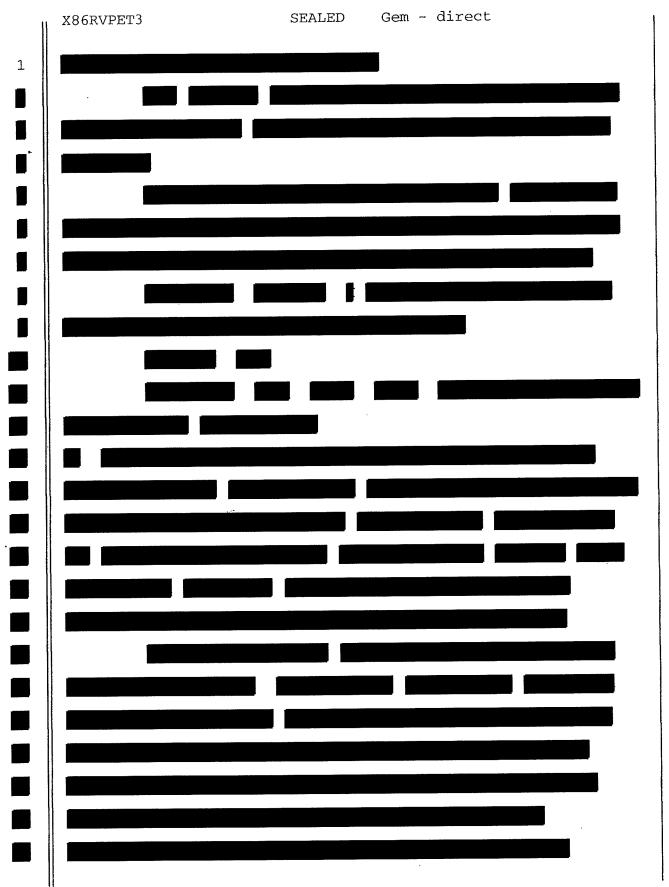
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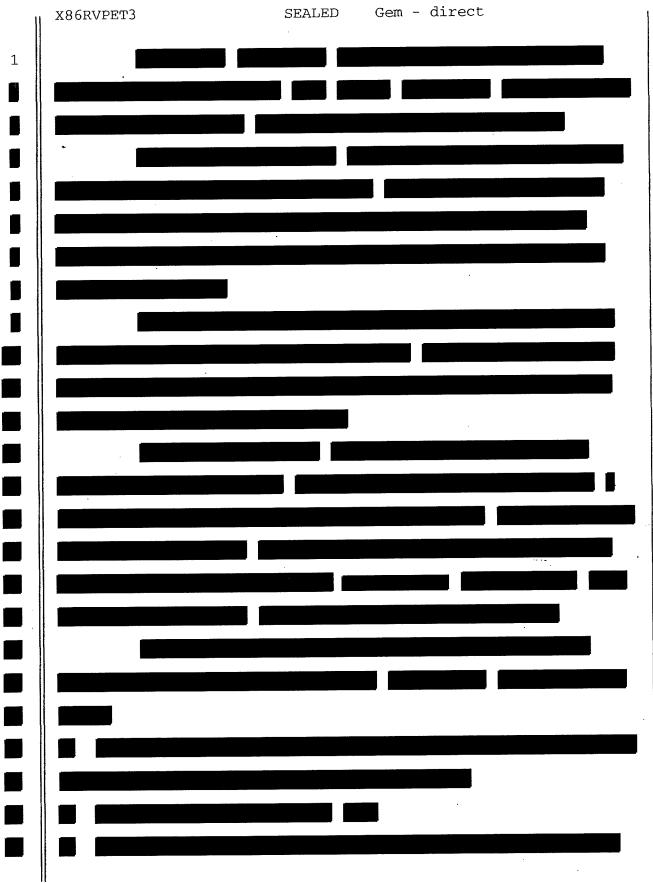


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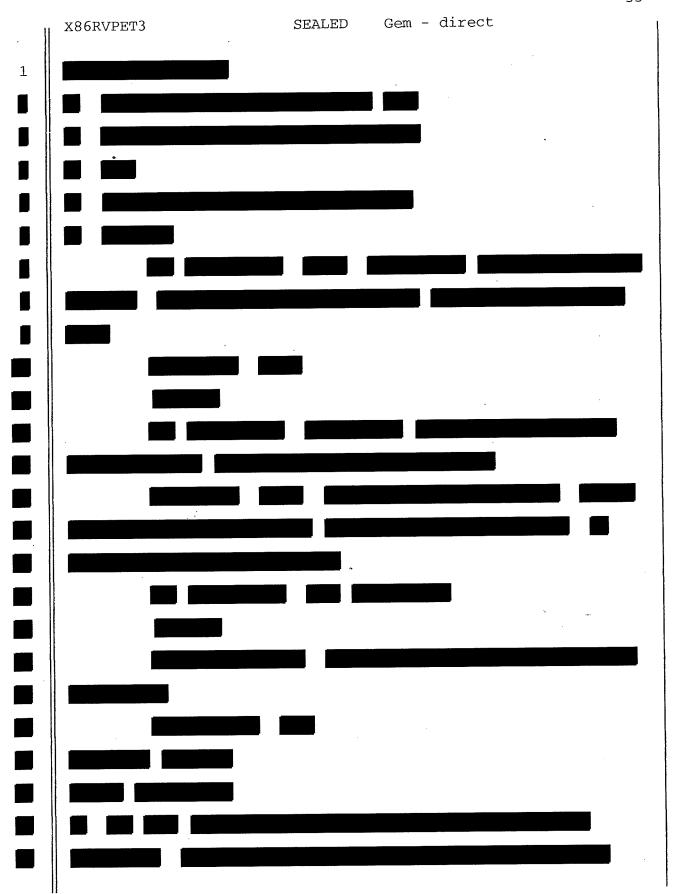


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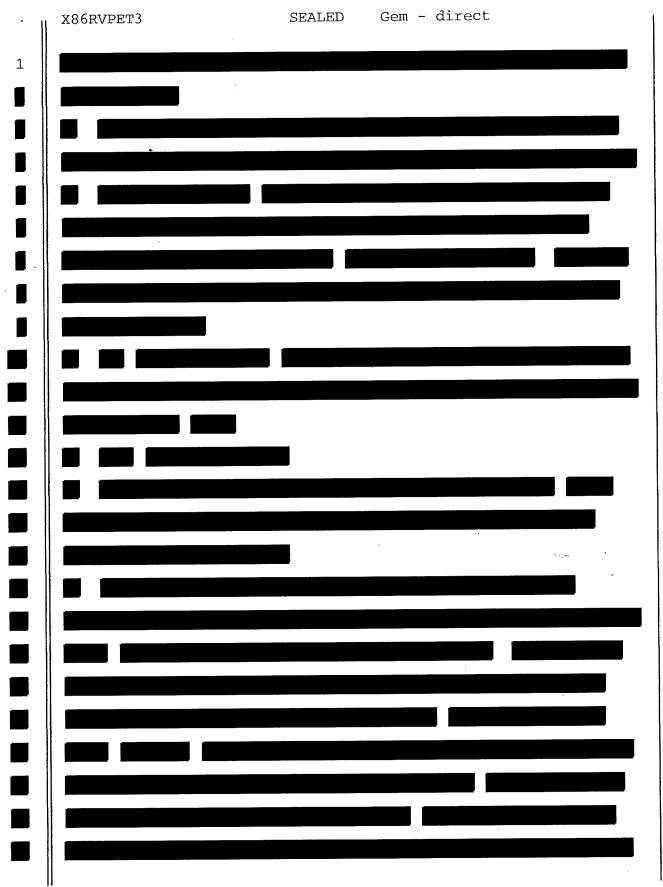


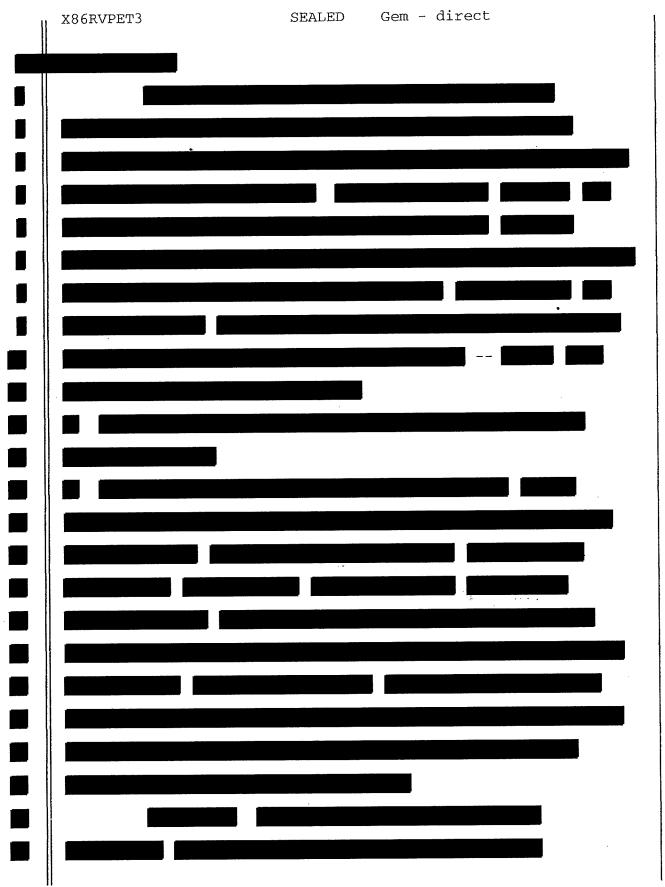
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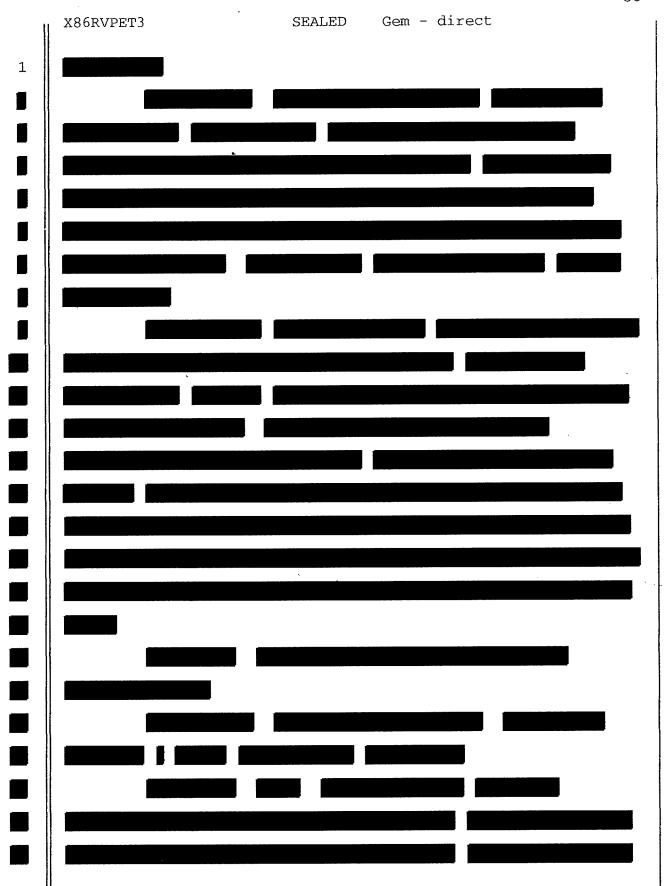
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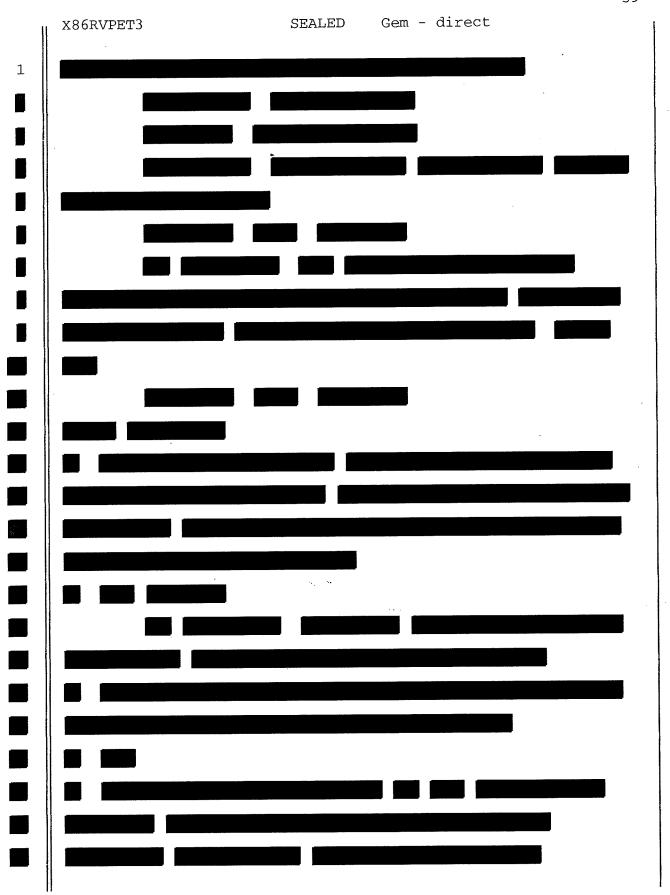




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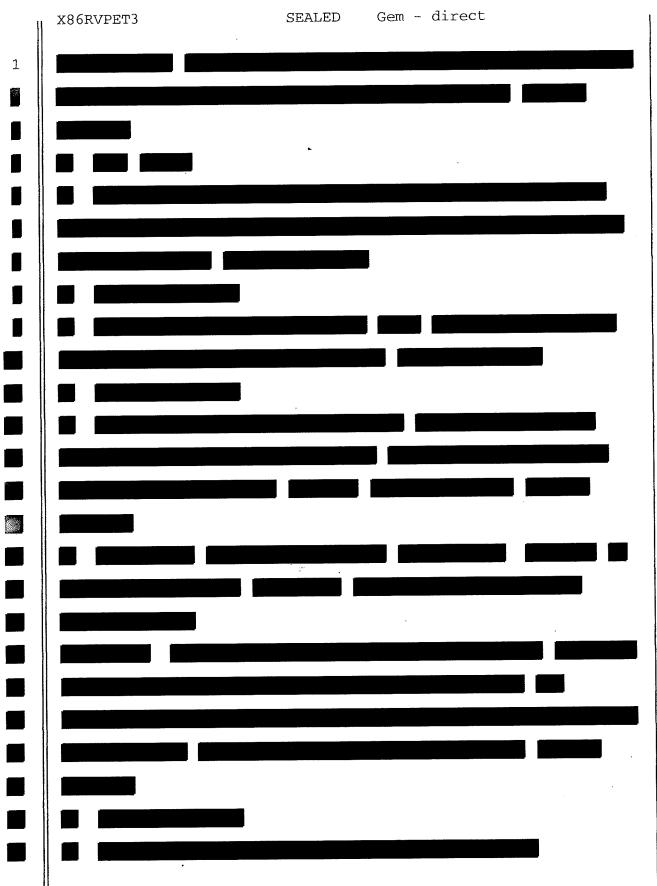


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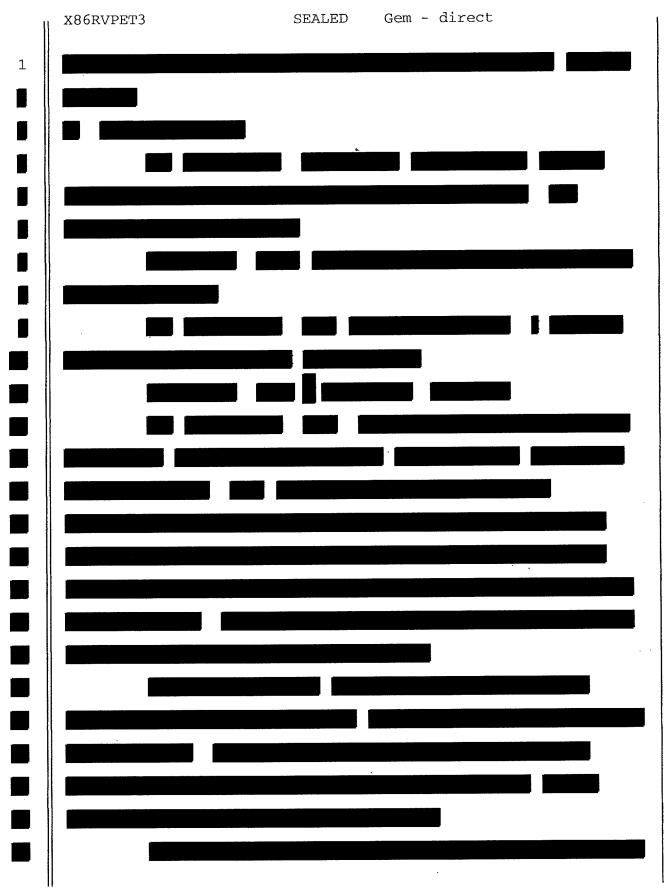


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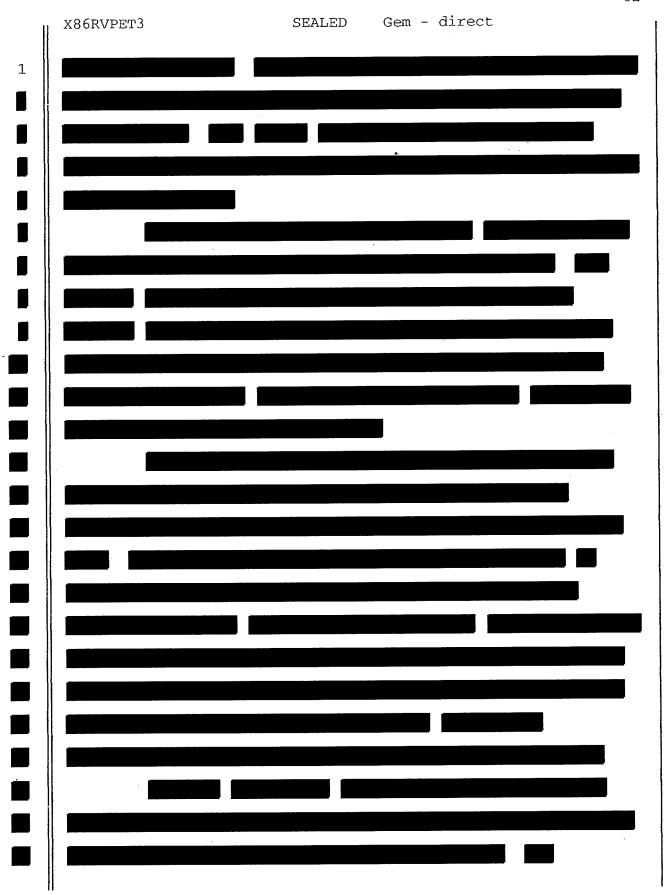




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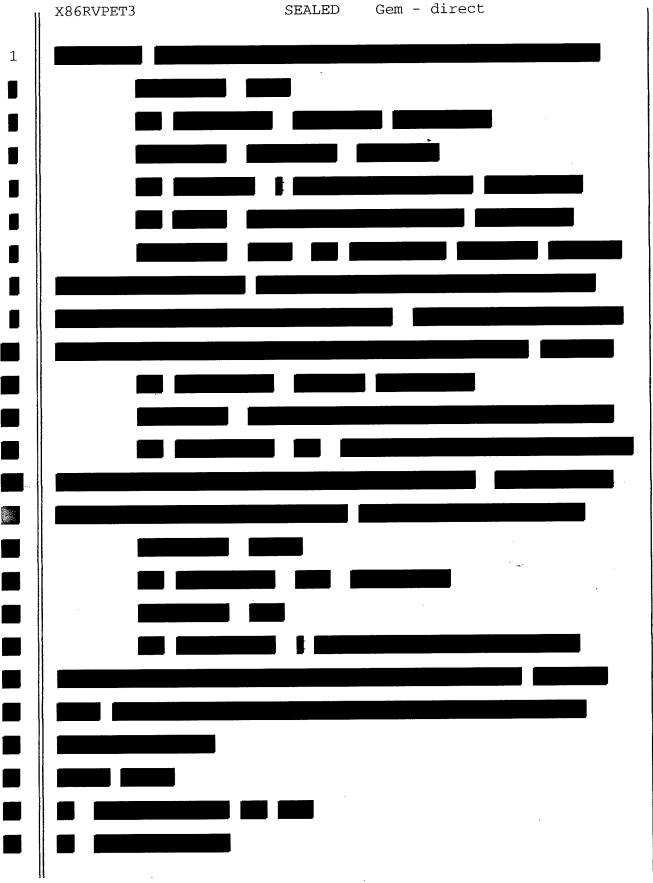


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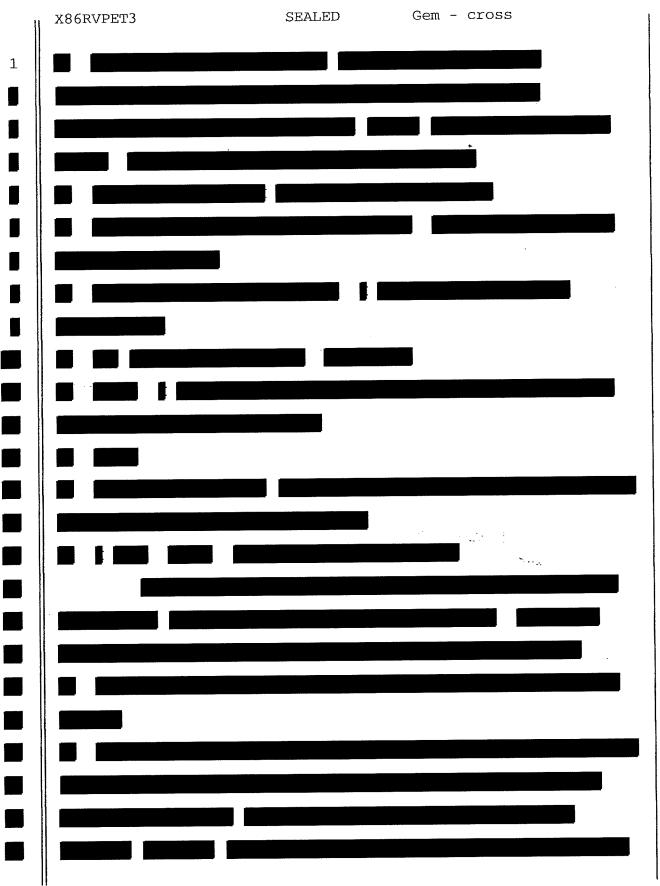


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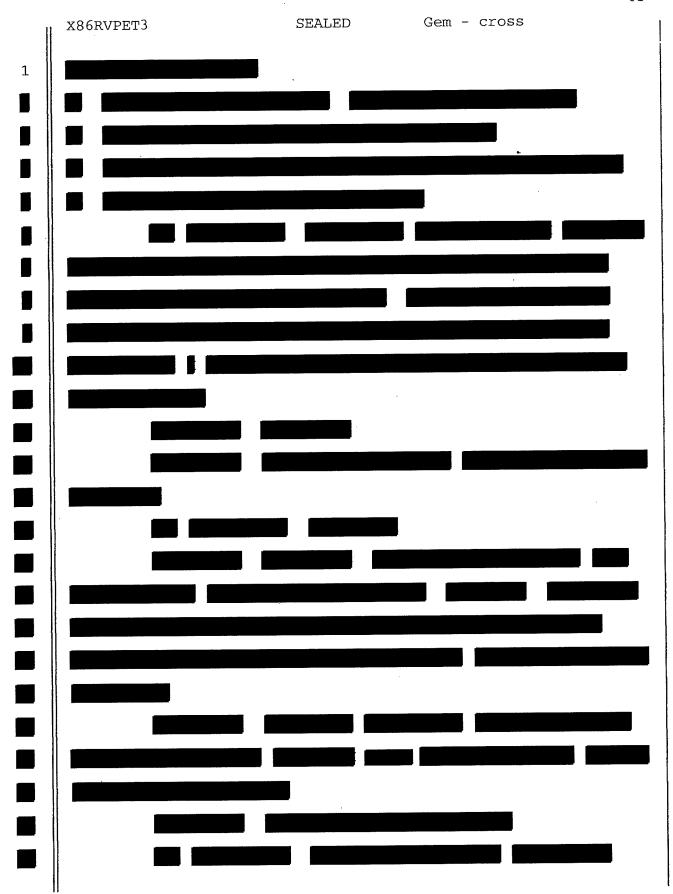






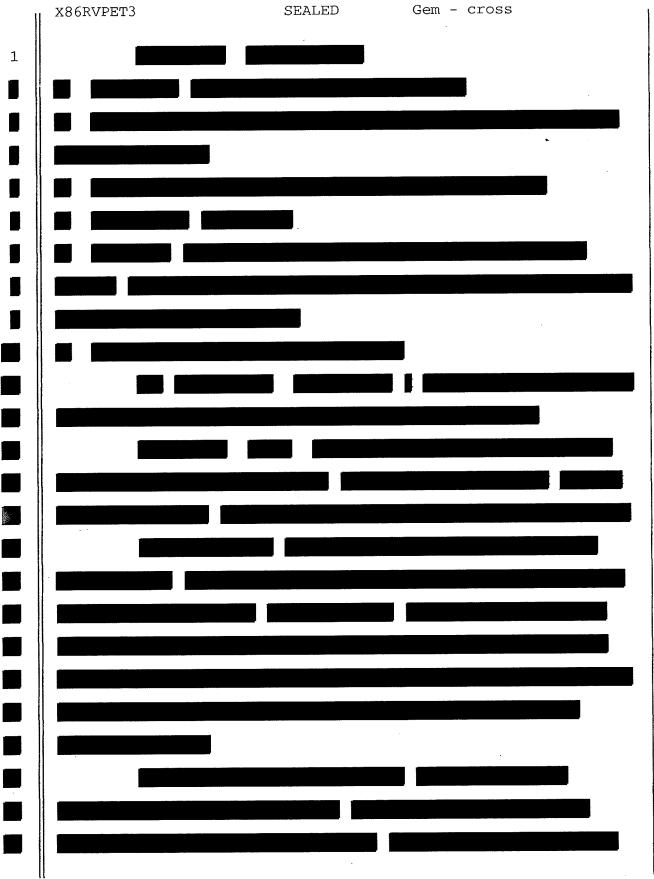


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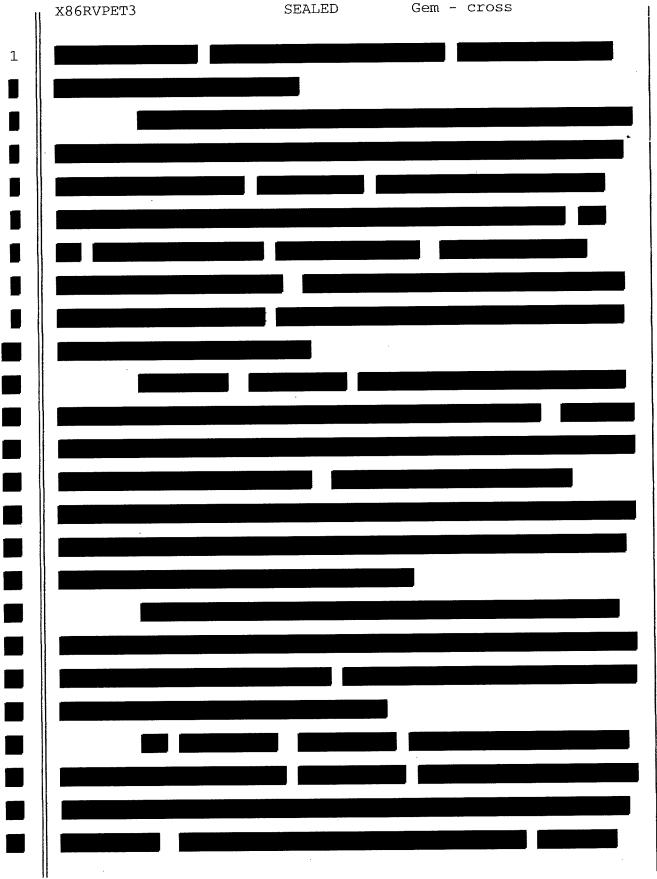
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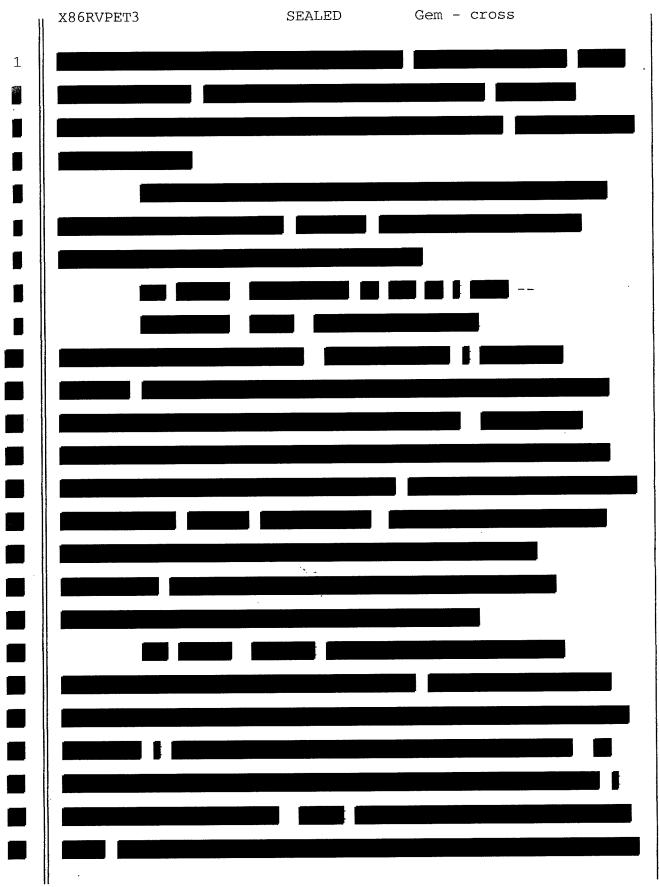
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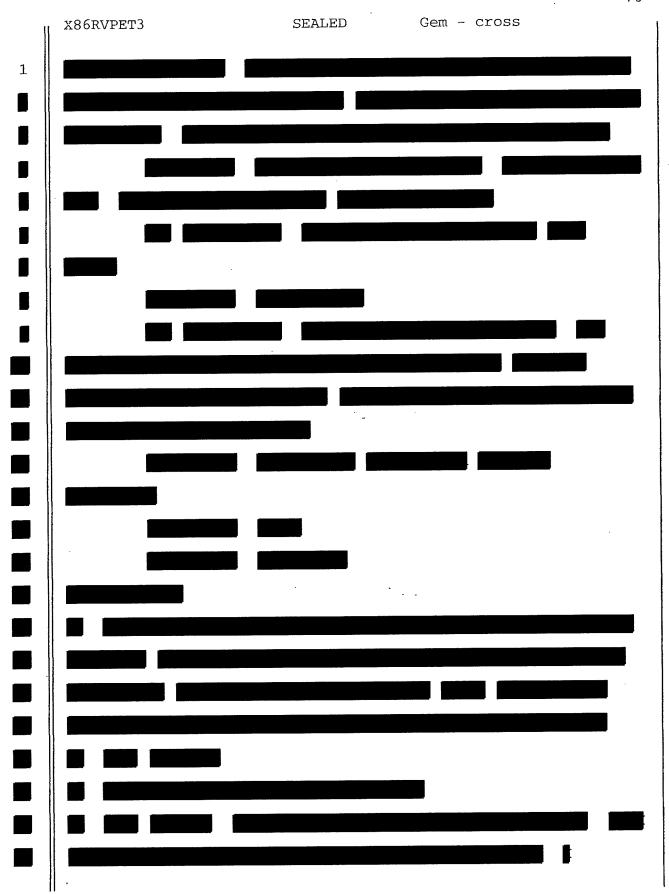


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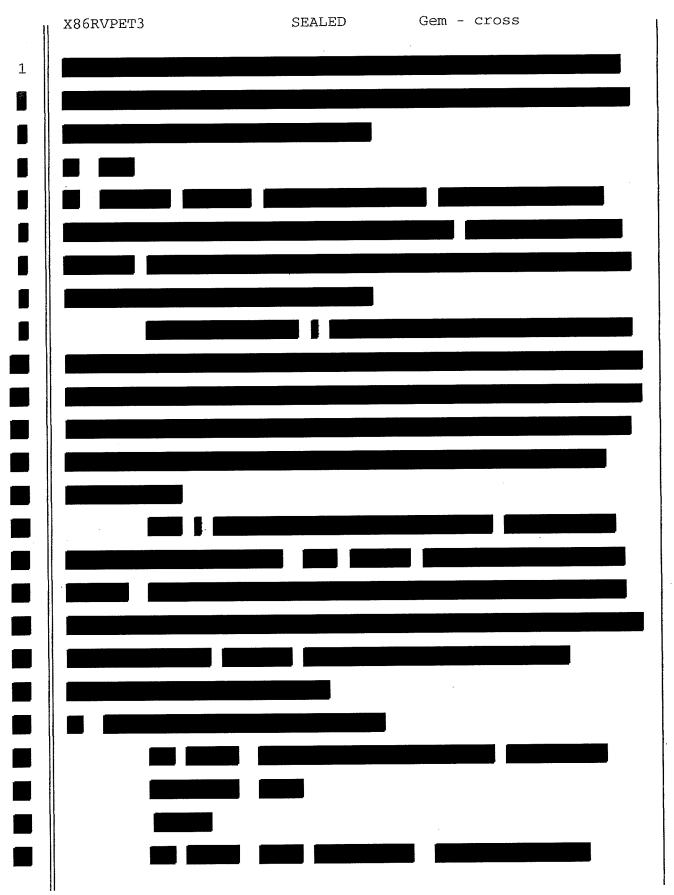




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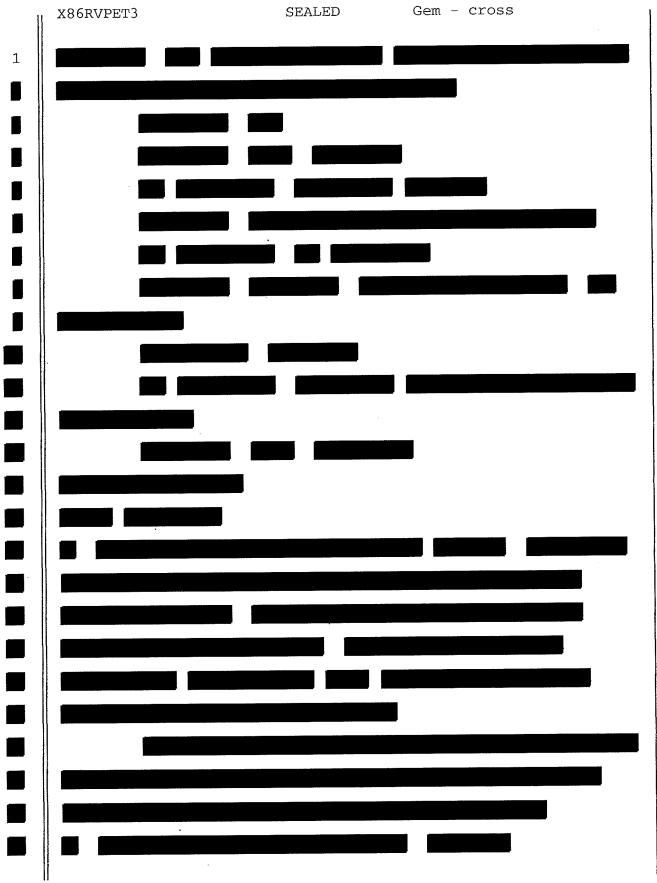


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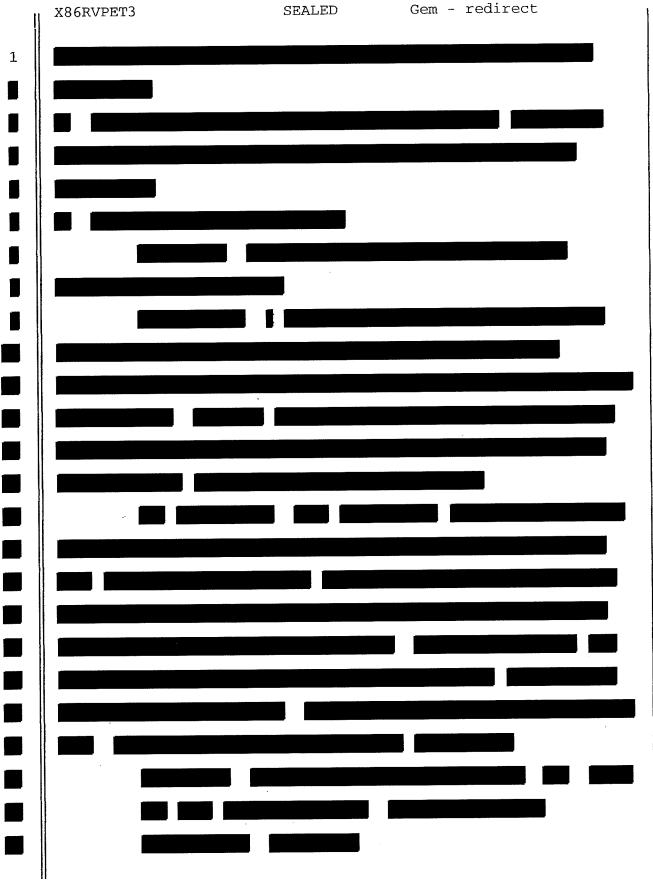
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(Witness excused)

MR. PANOPOULOS: Your Honor, I have one further If you remember our phone conference on Monday, application. plaintiffs have served discovery on Clearstream and on Citibank. They indeed served an information subpoena that lists somewhere close to 30 or more questions and testifying subpoenas for people to come and be deposed. We would like to ask the Court to stay any discovery of the restraining notices -- with respect to the restraining notice and with respect to these proceedings of Clearstream, because we think, one, we've provided all the relevant and material information; two, the discovery they have served is burdensome. I think all of it is irrelevant at this point. And really if they have something more specific than asking us who at Clearstream knows all the employees at Clearstream who work on these accounts, maybe we could work something out.

And lastly, just to raise that even to provide responses to discovery subpoenas, we would have to come back before the Court because of the banking secrecy laws, which is why we try to make an effort to produce and to talk about everything here.

And, if necessary, I'm willing to put Mr. Gem back on the stand and ask him each and every one of these questions in the information subpoena, if it would be necessary, rather than to have to go through additional discovery and all the fighting

that would entail.

MS. SCHNEIER: Your Honor, if I could just join in that request. We were also served, in fact, they had already served Citi, we just did not know about it at the time of the conference, with an information subpoena with 40 requests and a document request with 48 requests that I think at the very least is overbroad and calls for things like all documents reflecting communications between Citi and Clearstream.

I think, in light of what they've learned today, most of the requests are irrelevant; most of it, you know, would not be in Citi's possession, anyway. And so I join in Clearstream counsel's request that discovery be stayed at this point.

MR. VOGEL: Your Honor, I object to the positions taken by both Clearstream and Citibank. I believe I was just trying to ask only a few questions of the witness at Clearstream to try to get into some discovery, and I was met with objections and now I'm met with --

THE COURT: Not many.

MR. VOGEL: -- a motion to quash all discovery that we've served. So as far as Citibank and Clearstream are concerned, I now know everything I need to know. I just -- I can't agree with that.

THE COURT: The truth, as usual, is somewhere in between. The amount of disclosure is extraordinary. And the parties haven't given me all of the discovery. I've heard it

described as enormous and burdensome.

On the other hand, the plaintiffs have to be in a position not only to get a restraint, but to get a turnover. And they can't do that without linking, I take it, the funds that have been restrained to the defendant in the case. So they are entitled to some discovery in the process of enforcing their judgment against the defendant.

I can't believe, on the other hand, that the discovery requests that were issued are tailored to the information that the plaintiffs now have. And it should be. It shouldn't be omnibus, wonder bus, fishing expedition discovery when the plaintiffs now have a roadmap for what's relevant and what's not relevant.

So to ask for all of the employees of Clearstream who have had any contact with or Citibank in connection with this is not reasonable. And I'm sure that the plaintiffs can draft more reasonable requests for the purpose of enforcing a judgment in Washington.

MR. VOGEL: Your Honor, if I could just add, you are correct in light of what happened today, the discovery demands can certainly be more tailored. These demands were prepared before today, so we served obviously as broad as we could because we didn't know anything.

THE COURT: So the answer is the outstanding discovery requests are withdrawn without prejudice to service of

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appropriately-tailored discovery requests. Yes.

MR. PANOPOULOS: Your Honor, that would include the restraining notice served on us through the state court, as well, because it's the same discovery. The Court has the power to stay discovery in the state court that's ancillary to a proceeding in the federal court.

THE COURT: Well, hold on. I take it that the plaintiff's intent is to withdraw -- first of all, to withdraw any outstanding discovery requests. With respect to restraining notices that are issued from the state court, it's restraining the same funds, yes?

MR. PANOPOULOS: Yes, your Honor.

THE COURT: So it's not necessary to withdraw them, so that the one thing that's out there is Citibank has raised an objection. The restraining notice in this Court is not affected because it was issued by the clerk and not by a judge so --

MR. PANOPOULOS: There's a nunc pro tunc order by Judge Lamberth that takes care of that issue, I believe.

THE COURT: Plaintiffs went back to Judge Lamberth?

MR. PANOPOULOS: They did, and they got it -- when they served the restraining --

THE COURT: They weren't happy?

MR. PANOPOULOS: No --

THE COURT: They had to go to Washington?

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MR. PANOPOULOS: -- they weren't abiding by the Federal Sovereign Immunities Act, your Honor, which required a court order; they didn't have it. But they went in front of Judge Lamberth, got a nunc pro tunc order just two days ago that's retroactive to March 10th. So I think the issue is moot.

THE COURT: Okay. I'm not quite sure why plaintiffs would have gone to Judge Lamberth rather than to deal with a notice that came from the clerk of this Court, but so be it. Yes.

MR. VOGEL: Your Honor, I think I can answer that.

The reason for it was that there were other discovery demands and executions served prior to the commencement of the execution last week in this Court. And it was done in Chicago, I believe, and in California. And this dated back to March 10. And because Citibank's attorneys were so good at researching their brief, it showed a technical defect in all of these other executions. So counsel down in D.C. decided that might as well just get one from the beginning of time and make everything kosher.

THE COURT: Meaning no disrespect?

MR. VOGEL: No disrespect at all, your Honor.

THE COURT: All right. Well, I'm right then. All of the discovery requests are withdrawn. The state restraints, restraining notices, stay. I'll vacate -- are these two the

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two securities covered by the state order?

MR. PANOPOULOS: Yes, it's exactly the same as the --

THE COURT: DM51 and BK38?

MR. PANOPOULOS: Yes, your Honor.

THE COURT: Parties agree. Do you want to withdraw the restraint on those two, Mr. Vogel, from the state court?

MR. VOGEL: Yes. As I said, but with respect to those two securities, we consent to it be deemed withdrawn.

THE COURT: Okay. Why don't you hand up a proposed order. Show it to the plaintiff.

MR. PANOPOULOS: Yes, your Honor, I will.

THE COURT: Show it to the plaintiff, and then I'll sign it. And the order that I entered earlier, which set a briefing schedule and all, is that now academic?

MR. PANOPOULOS: It is academic, I believe so, your Honor. There's one housekeeping matter that has to do with keeping the under seal. And that, you know, the hearing today and the testimony today should only be used for the purposes of this proceeding. You know, what we don't want is for the plaintiffs to take, you know, these transcripts and these documents and to go to any other number of proceedings that are outside of this proceeding and disseminate them.

But other than that housekeeping matter, that's all there is, and I don't think we need a hearing next Thursday, and I'll go get the order now, your Honor.

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THE COURT: Well, I thought -- I didn't say it. I sealed the proceedings because they deal with confidential material, after we went through the public part. And so the transcript of the sealed proceeding is itself sealed. The parties have access to the transcript.

Shouldn't that be subject to the protective order that Judge Lamberth issued or subject to all of the same restrictions in that order? And that order was a pretty good order, I thought.

MR. PANOPOULOS: Yes, your Honor. The only loophole in that order is that it allows for other parties related to the main case in D.C. to have access to that information if the plaintiffs disseminate it to them. For example -- well, in some ways I'm theorizing, but there's a possibility that plaintiffs could go to one of their actions in the Northern District of California, where they've sued other financial institutions, and they could, you know, somehow use these transcripts under the guise of the protective order.

I'm being handed something that says, Any other person -- right. Under the protective order 5E, says, Any other person to whom disclosure is required in order to pursue proceedings incident to efforts to collect the judgments entered in Greenbaum Peterson litigation. And we think that that's too broad; that the disclosure here of Clearstream's banking information pursuant to the banking secrecy laws of

Luxembourg and your Honor's orders should not be subject to that dissemination. That's what we think and that's what we're applying to the Court for.

I mean obviously, you know, if they want to go after one of the banks we've talked about today before this Court in this proceeding, that's one matter. But to go after some oil company or some other financial institution in some other proceeding that's related to this, it's another, your Honor.

THE COURT: I thought the plaintiffs were fairly reasonable. I thought that the plaintiffs thought that Judge Lamberth thought it was fairly restrictive; I thought that that's why the parties were concerned even about the disclosure of these materials from what happened before Judge Lamberth to Clearstream, and needed an order from me before this was released to Clearstream.

It would seem to me, and correct me if I'm wrong, that this is sealed; so access is to the parties who have access to the materials that Judge Lamberth has said these are the parties with access or permitted access limited to the purposes that Judge Lamberth set out. And that if it's going to be accessed to any further person, it should only be with the permission of Judge Lamberth, preferably Judge Lamberth, or this Court.

MR. PANOPOULOS: Yes, your Honor. Again, 5A also has, The attorneys including their assistants, would also have

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access to the information. Again, just to show another loophole in the order.

THE COURT: Oh, I think attorneys know how to deal, and so do their assistants, with protective orders, matters under seal.

MR. VOGEL: I can tell you, in fact, your Honor, that I have two temporary summer law clerks working for me who are not normally with the firm, and I've had them both sign the protective order just to be super careful. So I think that I can understand Clearstream's concern, but I think that Judge Lamberth's protective order adequately protects Clearstream and everyone concerned.

THE COURT: All right. I don't believe that, by the way, a court order on confidentiality restricts the Court or court personnel. I don't believe that we have to sign the protective order.

why don't you take five minutes, show the proposed order to the plaintiff. It seems to me -- are there any other orders that I have to issue? That order should be a final order in the sense of it should vacate the prior scheduling order for me. And if there are any other issues that I should deal with in the order, think about it, put them in.

MR. PANOPOULOS: In that case, your Honor, we'll work on it on a laptop. And if it's possible, could we print the order using the Court's facilities and printer?

THE COURT: How do you propose to do that? If you put it on a laptop, you're going to download it to a disk?

MR. PANOPOULOS: Use a flash drive.

THE COURT: Maybe some of my law clerks --

MR. PANOPOULOS: It's very simple, your Honor. It's very simple.

THE COURT: Well, you do that. You can pass it up.

MR. PANOPOULOS: Okay, your Honor. We'll take five

minutes. Thank you.

(Recess)

THE COURT: I've read the proposed order; I've signed it. We'll make a copy, I should have done it before I came down, and give it to you and see that it's filed. So that ends this proceeding.

There was a set of the documents that I had been given on the order to show cause on a disk. Were the originals filed under seal?

MS. SCHNEIER: We were told, your Honor, that if you're filing documents under seal, the procedure now is to put them on a disk. If you want, we can give you a hard copy, we printed them out. But that's what the clerk's office told us to do.

THE COURT: Okay. Well, I'll file this under seal then.

MS. SCHNEIER: I think we filed that under seal.

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That's a courtesy copy for you.

THE COURT: Oh, you did file already.

MS. SCHNEIER: Yes, yes.

THE COURT: I thought I had to sign an order.

MS. SCHNEIER: They took it.

THE COURT: They took it under seal.

MS. SCHNEIER: Yes.

THE COURT: I don't see any reason for me to keep the courtesy copy. I'll give them back to you, along with both notebooks with all of the sealed materials.

MR. PANOPOULOS: Your Honor, should we file under seal on a disk with the material in the notebooks?

THE COURT: I don't see any reason to.

MR. PANOPOULOS: Okay. Thank you, your Honor.

THE COURT: Usually exhibits don't get filed.

MR. PANOPOULOS: Okay, your Honor. Thank you.

THE COURT: We'll make a copy of the order. And if you wait around in court, you can have copies and we'll see that the original gets filed.

MR. PANOPOULOS: I will.

THE COURT: We'll also return to you the flash drive.

MR. PANOPOULOS: We have it.

THE COURT: Okay.

MR. PANOPOULOS: Very convenient device, your Honor.

THE COURT: Okay. I'll take your word for it. That

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ends this proceeding. If there are further motions, I assume that they'll go to the Part 1 judge. So I appreciate the quality and professionalism of all of the lawyers involved. Hope to see you on another case. MR. PANOPOULOS: Thank you, your Honor. MR. VOGEL: Thank you, your Honor. MS. SCHNEIER: Thank you for making yourself

MR. PANOPOULOS: I'll wait in the back of the courtroom, your Honor.

THE COURT: Fine.

available.

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